



CITY OF MORGAN HILL

Regular Meeting Agenda

Planning Commission

John McKay - Chairman

Liam Downey - Vice Chairman

Joseph Mueller - Planning Commissioner

Wayne Tanda - Planning Commissioner

Yvonne Martinez Beltran - Planning Commissioner

Mohammad Habib - Planning Commissioner

Juan Miguel Munoz Morris - Planning Commissioner

Tuesday, August 8, 2017 7:00 PM

Council Chamber

17555 Peak Avenue, Morgan Hill, CA 95037

CALL TO ORDER

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

Pursuant to Government Code Section 54954.2

OPEN PUBLIC COMMENT PERIOD

Members of the public are entitled to address the Planning Commission concerning any item within the Morgan Hill Planning Commission's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the Planning Commission is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

ORDERS OF THE DAY

PUBLIC HEARINGS

1. **USE PERMIT, UP2016-0017/ ENVIRONMENTAL ASSESSMENT, EA2016-0010: PEET – SCVWD: REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW NEW CONSTRUCTION OF AN APPROXIMATELY 21,600-SQUARE FOOT WAREHOUSE BUILDING, WITH A BUILDING HEIGHT OF 32 FEET. THE PROJECT WOULD CONSOLIDATE AND PROVIDE DEDICATED INDOOR AND OUTDOOR STORAGE FOR SANTA CLARA VALLEY WATER DISTRICT (SCVWD) MATERIALS. THE PROPERTY, IDENTIFIED BY ASSESSOR PARCEL NUMBER(S) 728-34-008, IS LOCATED ON NORTHERLY SIDE OF PEET ROAD EASTERLY OF THE INTERSECTION WITH AVENIDA DE LOS PADRES; SANTA CLARA VALLEY WATER DISTRICT, OWNER. CEQA: MITIGATED NEGATIVE DECLARATION ADOPTED BY SCVWD.**

Recommendation:

Adopt Resolution approving a Conditional Use Permit to allow construction of a warehouse building for the Santa Clara Valley Water District (SCVWD).

OTHER BUSINESS

2. **ZONING CODE UPDATE PLANNING COMMISSION WORKSHOP SCHEDULE**

Recommendation:

Select dates for three Zoning Code Update Workshops.

3. **LEGAL PRESENTATION: LAND USE OVERVIEW**

Legal presentation to provide guidance on Land Use Rules and Regulations, the Brown Act, and other public processes.

ANNOUNCEMENTS

ADJOURNMENT

NOTICE

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the legislative body less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the legislative body. (Pursuant to Government Code 54957.5)

PUBLIC COMMENT

Members of the Public are entitled to directly address the Commission concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Commission on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Commission Chambers, and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Commission, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the Commission on any other item of interest to the public, you may do so by during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the Commission.

Persons interested in proposing an item for the Commission agenda should contact a member of the Commission who may plan an item on the agenda for a future Commission meeting. Should your comments require Commission action, your request may be placed on the next appropriate agenda. Commission discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the Commission at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the Commission, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of Commission Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email michelle.wilson@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email michelle.wilson@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.



Sustainable Morgan Hill Vision

Morgan Hill is a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all.

CITY COUNCIL ONGOING PRIORITIES

Enhancing Public Safety · Protecting the Environment · Maintaining Fiscal Responsibility ·
Supporting Our Youth, Seniors, and Entire Community · Fostering a Positive Organizational Culture ·
Preserving and Cultivating Public Trust · Preserving Our Cultural Heritage

2017 STRATEGIC PRIORITIES

High Speed Rail

Inclusiveness

Infrastructure

Regional Initiatives

Telecommunications

2017 STRATEGIC PRIORITIES:



High Speed Rail

The City of Morgan Hill will directly advocate for our community's needs through our communications, discussions, and decisions. We will continue to engage the community, the High Speed Rail Authority, our state and federal legislators, and other regional agencies to mitigate negative impacts and convey our position that the High Speed Rail Authority should only use the existing Highway 101 right-of-way to avoid all impacts to residents, schools, and businesses. Should the Authority decide the 101 right-of-way is not feasible, we will strongly advocate for the route with the least impact on Morgan Hill.



Inclusiveness

We will celebrate the diversity, history, and culture of our community. Through City Council workshops, community meetings, and researching successes in other communities, the City will listen to and collaborate with the community to define how inclusiveness will be further woven into our community's fabric and to increase public participation. The City's communications, services, public spaces, and projects will embrace all community members as partners, advancing our vision of being a socially responsible community.



Infrastructure

The City will review its streets, parks, and public facilities infrastructure needs initially by updating its 2014 infrastructure study to quantify the funding gap. We will identify potential funding options as ongoing revenue is insufficient to fund our vital community assets at a sustainable level without significantly impacting existing service levels that our community has come to expect. Morgan Hill will actively work with the Valley Transportation Agency, the County, and the State to secure funding for the Santa Teresa extension and road maintenance. We will continue to work closely with our community to inform them of the needs and engage them to find an affordable and sustainable solution.



Regional Initiatives

City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. This regional involvement will include, but not be limited to, partnering with the League of California Cities, Valley Transportation Authority, Santa Clara Valley Water District, Cities Association of Santa Clara County, the City of Gilroy, Santa Clara County, Morgan Hill Unified School District, the Local Agency Formation Commission, the Open Space Authority, and Silicon Valley Clean Energy to advance projects that further Sustainable Morgan Hill.



Telecommunications

The City will collaborate with the private sector to explore ways to provide fast, reliable access and wireless connectivity for residents and businesses. The 2016 Telecommunications Infrastructure and Economic Development Blueprint reports will be the foundation for continuing discussions with broadband providers, public utilities, and other infrastructure service providers in developing an implementation plan for growing our telecommunications infrastructure. The plan will be used to signal Morgan Hill's support for business expansion.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: August 8, 2017

PREPARED BY: Jim Rowe, Contract Planner

APPROVED BY: Jennifer Carman, Community Development Director

USE PERMIT, UP2016-0017/ ENVIRONMENTAL ASSESSMENT, EA2016-0010: PEET – SCVWD: REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW NEW CONSTRUCTION OF AN APPROXIMATELY 21,600-SQUARE FOOT WAREHOUSE BUILDING, WITH A BUILDING HEIGHT OF 32 FEET. THE PROJECT WOULD CONSOLIDATE AND PROVIDE DEDICATED INDOOR AND OUTDOOR STORAGE FOR SANTA CLARA VALLEY WATER DISTRICT (SCVWD) MATERIALS. THE PROPERTY, IDENTIFIED BY ASSESSOR PARCEL NUMBER(S) 728-34-008, IS LOCATED ON NORTHERLY SIDE OF PEET ROAD EASTERLY OF THE INTERSECTION WITH AVENIDA DE LOS PADRES; SANTA CLARA VALLEY WATER DISTRICT, OWNER. CEQA: MITIGATED NEGATIVE DECLARATION ADOPTED BY SCVWD.

RECOMMENDATION(S)

Adopt Resolution approving a Conditional Use Permit to allow construction of a warehouse building for the Santa Clara Valley Water District (SCVWD).

LOCATION



PROJECT SUMMARY:

1. Location: 18300 Peet Road (APN 728-34-008)
2. Site Area: 8.23 Acres
3. General Plan: Public Facilities
4. Zoning: PF
5. Request: Request for a Conditional Use Permit to allow construction of an approximately 21,600-square foot warehouse building, with a height of 32 feet.

BACKGROUND:

The Santa Clara Valley Water District (SCVWD) proposes to design, permit and build the Coyote Warehouse Project on a parcel owned by the SCVWD that is adjacent to the U.S. Bureau of Reclamation federally owned Coyote Pumping Station. The Coyote Pumping Plant is part of the Central Valley Project (CVP) that supplies water to the SCVWD. Underground utilities and private driveways interconnect between the two parcels. The SCVWD and U.S. Bureau of Reclamation have an executed Operation and Maintenance Agreement under which the SCVWD operates and maintains the San Felipe Division facilities, including the Pacheco Pumping Plant, Santa Clara Conduit and Tunnel, and Coyote Pumping Plant.

Site Description

The Project site does not currently have any permanent structures and is currently used by the SCVWD for stockpiling soils, rocks, and miscellaneous debris, plus storage of water pipe and pipeline appurtenances. The northern perimeter of this site is used for rock storage, with soil stockpiles to the south. The quantity of materials stockpiled on the site varies as soil and rock are removed or brought to the site. The western perimeter, as well as a portion of the eastern perimeter, is used to store water pipe and pipeline appurtenances (including storage of water pipeline segments below ground). Pipe materials are also stored in the northeastern corner.

The approximately 10-acre Coyote Pumping Plant site owned by the U.S. Bureau of Reclamation is located between the SCVWD parcel and Peet Road. The Coyote Pumping Plant parcel is fenced with gated access along Peet Road and includes a substation, switching yard, maintenance building, two office trailers, several equipment storage bins, open ground storage areas, and improved and unimproved parking.

PROJECT DESCRIPTION:

The Project would involve the new construction of a 21,600-square foot metal framed building. The foundation and sidewalls of the warehouse would be constructed of an 8-foot high concrete masonry unit, with rib panel metal siding extending from the masonry unit. The ribbed panel metal roof would be equipped with skylights. The project would consolidate and provide dedicated indoor and outdoor storage of materials and activities currently located throughout the two parcels, and the Pacheco Pumping Plant and move them to the SCVWD owned parcel in the City of Morgan Hill.

SCVWD and vendor/delivery vehicles would access the warehouse via one of the three roll up doors. Two roll up doors would be approximately 28 feet wide by 17 feet tall and the third would be approximately 12 feet wide by 17 feet tall. Each of these entrances may include a canopy. Areas surrounding the warehouse building would primarily be graveled, with the vehicle access being paved. The warehouse would be constructed in compliance with California Green Building Standards.

Lighting

The Project would include wall mounted lighting fixtures on the exterior of the warehouse for use during emergencies, when urgent repairs are required on the SCVWD distribution system. The mounted fixtures would be designed to direct light downward and control light trespass onto adjacent properties. Pole mounted lighting is not proposed.

Storage Areas

The rip-rap and rock storage area along the northern perimeter of the site would remain unchanged and would continue. The open storage area along the western perimeter would continue to be used for the storage of pipe and pipeline appurtenances. The eastern side of the site would be used for gravel and outdoor bin and tank storage. The outdoor bins and tanks would be stored in enclosures which would block them from view and designed to be visually consistent with the warehouse.

Landscaping and Wall

New perimeter screening would include planted trees and raised moveable planters. The perimeter trees in the areas of underground pipe storage would be of a size comparable to the planted trees, but would remain in the movable planters. This would allow them to be moved for excavation and access, thereby avoiding damage to the trees and their roots. Landscaping would consist of species with low water and maintenance needs. Existing trees would remain. An approximately 8-foot-high concrete masonry unit (CMU) sound wall would be installed along the inside of the property line on the north and east side of the site.

Circulation

Primary access to the site is from the two existing Peet Road access points into the Coyote Pumping Plant, which are controlled by locked gates. For on-site circulation, vehicles enter the eastern gate and exit through the western gate on the U.S. Bureau of Reclamation parcel. Delivery vehicles would approach the warehouse building from the south and east, enter and pass through the building east-to-west through the roll-up doors, and exit to the west and south. A turn-around pad would be located at the west vehicle access. Within the Coyote Pumping Plant site, asphalt driveways lead north from the Peet Road access to the separate SCVWD-owned parcel. Within the site, the driveways would be paved with asphalt. An existing gate that allows access to the

aqueduct from within the site is located near the northwest corner. This gate would be replaced.

ANALYSIS:

The proposed Conditional Use Permit to construct and utilize a Warehouse Building was analyzed for consistency with the: 1) General Plan; 2) Zoning Code; and 3) Conditional Use Permit Findings.

1. General Plan

The General Plan land use designation is Public Facilities. This designation is applied to land used by public or quasi-public agencies and organizations including the City, hospitals, utility companies, and the Morgan Hill Unified School District (MHUSD). The SCVWD would be the primary use at the site. A maximum floor area ratio (FAR) of 0.5 and a maximum building height of 35 feet is permitted within this land use. The proposed project would have a 0.06 maximum FAR and the building would be 32-feet in height.

2. Zoning

The property is within the Public Facilities (PF) zone district. Permitted uses include all facilities owned or leased and operated or used by the city, the county, the state, the government of the United States or the MHUSD. Conditional Uses include facilities of all public utilities, as defined in the Public Utilities Code of the state, and corporations or other organizations whose activities are under the jurisdiction of the Federal Communications Commission or Interstate Commerce Commission. The proposed warehouse storage building is not specifically listed as a permitted or conditional use. The warehouse use would be of similar nature to those permitted or conditionally permitted within the PF zone district as provided in Section 18.19.030(P) of the Morgan Hill Municipal Code.

3. Conditional Use Permit Findings

Pursuant to the requirements in Section 18.54.050 of the Morgan Hill Municipal Code, the following findings are required to be made by the Planning Commission:

A. The site is suitable and adequate for the proposed use.

The approval of the requested Conditional Use Permit would allow indoor storage space for water pipe and appurtenances as well as allowing for better organization and more efficient moving of supplies currently stored outdoors. The site is currently being used in a similar capacity. The Project would be comparable to adjacent structures/facilities at the Coyote Pumping Plant on the Bureau of Reclamation property. Materials and supplies would not be visible from public areas. The site is suitable and adequate for the proposed warehouse use.

B. The proposed use and design would not have a substantial adverse

effect on traffic circulation and on the planned capacity of the street system.

The SCVWD and vendor/delivery vehicles currently access the site via a driveway and gate system located off Peet Road. The vehicles utilize internal site circulation roads within both the Bureau of Reclamation and SCVWD parcels to perform day to day tasks that are currently performed on the site. The project, outside of construction related traffic activities, will not increase the current traffic circulation in and around the project site. Pursuant to requirements of the City's Fire Department, the project access roads would be required to be paved and a truck turn-around would be installed at the building's eastern access.

According to Transportation Analysis in the project Final Initial Study document (Attachment 6) it is estimated that construction of the project would result in the addition of a maximum of approximately 59 daily vehicles to the area roadways. It is anticipated that these vehicles would access the project site using Highway 101, Cochrane Road, and Peet Road. Based on 2010 ADT volumes on these two local roadways and 2014 ADT volumes on Highway 101 stated above, the addition of 59 daily vehicles is not expected to noticeably affect roadway operations. Existing traffic volume on Peet Road is approximately 600 ADT with a capacity to accommodate up to 1,600 vehicles per hour in each direction. Based on the existing roadway volumes and capacities, the proposed use and design would not have a substantial adverse effect on the traffic circulation and on the planned capacity of the street system. No additional trips would be generated with the completion of the project.

- C. The proposed use at the location will not adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in vicinity of the site, or be detrimental to public health, safety or general welfare.**

The addition of the warehouse at the site will not alter the existing use of the site. The site is currently being used for outdoor parts storage and material storage. The project seeks to consolidate the storage into one facility and improve organization of the site.

Operations at the project site would be similar to the existing operations, which includes transportation and storage of materials. The site activities would continue to operate from approximately 6:30 a.m. to 4:00 p.m. five days a week. The existing SCVWD employees would remain at the project site. There would be no new daily employee traffic trips or delivery truck trips with the project.

The project's operations would not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding areas. The project would not impair the utility or value of the property of other persons located in the vicinity of the site and will not be detrimental to the health, safety or

general welfare.

D. The design of the project is compatible with existing and proposed development within the district and its surroundings.

The project includes the construction of a 21,600-square foot, metal framed warehouse building. The design of the warehouse building is similar to the existing Coyote Pumping Plant facility on the adjacent Bureau of Reclamation property. The foundation and sidewalls of the warehouse would be constructed of an 8-foot high concrete masonry unit, with rib panel metal siding extending from the masonry unit. The ribbed panel metal roof would be equipped with skylights. The building would be setback approximately 118 feet from the nearest residential rear property line. The project site would be screened with trees both planted and in raised movable planters. Along the northern and eastern perimeter, a new 8-foot sound wall would be installed.

The project would be required to comply with the zone district development (height and setback) standards which will be reviewed in detail as part of the Design Review Permit. The building, as proposed, complies with the minimum setback requirement to the existing single-family neighborhood to the north on Altirmira Circle.

As designed and as further reviewed through the Design Permit approval process, the design of the project would be compatible with existing and proposed development within the district and its surroundings.

Community Engagement

The proposed project was publicly noticed (mailing to property owners within 300 feet of the project and newspaper posting) for the minimum 10-day period.

Conclusion

The proposed use is consistent with the General Plan as noted in the above. Staff recommends Planning Commission approve the Conditional Use Permit, subject to the findings and conditions contained in the attached resolution.

CEQA (California Environmental Quality Act):

A Mitigated Negative Declaration was adopted for the project in a prior action by the Lead Agency, the Board of Directors of the SCVWD. A copy of the Board Resolution approving the Mitigated Negative Declaration (MND) and copy of the Final Initial Study are attached (Attachments 5 and 6). As the decisionmaking body of the City as Responsible Agency, the Planning Commission must consider the mitigate negative declaration prior to acting upon or approving the project, and certify that it reviewed and considered the information contained in the MND on the project.

LINKS/ATTACHMENTS:

1. Conditional Use Permit Resolution
2. Statement of Proposed Operations

3. Letter of Justification
4. Project Plans
5. SCVWD Board Resolution Adopting Final Initial Study & Mitigated Negative Declaration
6. Final Initial Study
7. Item 01 Supplemental 01 Revised Resolution
8. Item 01 Supplemental 02 Process for a Responsible Agency
9. Item 01 Supplemental 03 PC Questions Answered
10. Presentation

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR THE CONSTRUCTION AND OPERATION OF A 21,600 SQUARE FOOT WAREHOUSE STORAGE FACILITY TO OPERATE ON A 8.23 ACRE PARCEL LOCATED NORTH OF PEET ROAD BETWEEN HALF ROAD AND MISSION AVENIDA. (APN 728-34-008)

WHEREAS, such request was considered by the Planning Commission at their meeting of August 8, 2017, at which time the Planning Commission approved application UP2017-0017 Peet-SCVWD; and

WHEREAS, the Planning Commission has made the findings required for approval of a Conditional Use Permit as described in Section 18.54.050 of the Morgan Hill Municipal Code; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved use together with the below conditions is consistent with the General Plan land use designation of the subject site, which is "Public Facilities" and a zoning district designation of Public Facilities "PF"; and

SECTION 2. The Planning Commission of the City of Morgan Hill hereby certifies that it reviewed and considered the information contained in the mitigated negative declaration and finds that, on the basis of the whole record before it (including the final initial study and any comments received), ~~that~~ there is no substantial evidence that the project will have a significant effect on the environment, ~~and~~ that the Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted by the Lead Agency, the Board of Directors of the Santa Clara Valley Water District prior to action taken to adopt the Resolution. The custodian of the documents or other material which constitute the record shall be the Community Development Department; and

SECTION 3. The Planning Commission has made the findings required for approval of a Conditional Use Permit as described in Section 18.54.050 of the Morgan Hill Municipal Code. The basis and the findings are set forth in the staff report of the Planning Commission Meeting of August 8, 2017, which findings were duly considered by the Commission and are hereby adopted.

SECTION 4. The use shall be expressly conditioned on conformance to conditions incorporated herein and as attached as Exhibit "A".

SECTION 5 The approved project shall be conducted in a manner consistent with the proposed

operations explained within the staff report of the Planning Commission Meeting of August 8, 2017 and Site Plans Titled Coyote New Warehouse Project stamped date received December 22, 2016, and by this reference incorporated herein.

PASSED AND ADOPTED THIS 8th DAY OF AUGUST 2017, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

JENNA LUNA, Deputy City Clerk

JOHN MCKAY, Chair

A F F I D A V I T

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Applicant

Date: _____

EXHIBIT A

CONDITIONS OF APPROVAL

Project/Application: UP2016-0017: Peet-SCVWD

The following conditions shall be met prior to the issuance of building and/or site development permits and shall continue for the life of the conditional use permit except as otherwise specified in the conditions.

ACRONYMS:

MHMC – Morgan Hill Municipal Code

MHARH – Morgan Hill Architectural Review Handbook

PLANNING DIVISION

I. TIME LIMITS

- A. The Conditional Use Permit approval granted under this Resolution shall remain in effect for 24 months to August 8, 2019. Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted prior to the expiration date. **(MHMC 18.54.070 A)**
- B. In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions. **(MHMC 18.54.090)**

II. OTHER CONDITIONS

- A. The Conditional Use Permit is approved solely for the operation of the 21,600-square foot warehouse storage facility and outdoor storage yard as described in the applicants proposed statement of operations (except as otherwise conditioned contained herein) on file with the planning division dated October 7, 2016 (application UP2016-0017: Peet - SCVWD) and as shown in the area depicted on the illustrations in the set of plans date stamped December 22, 2016. Any expansion, intensification, or changes to the uses approved under this Conditional Use Permit shall be permitted only upon amendment of this Conditional Use Permit or approval of a separate Conditional Use Permit application.
- B. The Applicant shall obtain a Design Review Permit prior to applying for building permits for the project. The site plan for the Design Review permit shall be in substantial compliance with the site plan approved through the conditional use permit and shall incorporate applicable conditions of approval contained herein.

- C. All on-site lighting shall be designed and installed to limit glare or visibility by adjacent residential uses.
- D. DEFENSE AND INDEMNITY: Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this Conditional Use Permit approval. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.
- E. MITIGATION FEE ACT: Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.
- F. ANNUAL REVIEW: In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions.
- G. SIGNED COPIES OF RESOLUTION: Submit two (2) signed copies of Resolution ____ to the Planning Division prior to issuance of building permits.



October 7, 2016

Elaine Collins
City of Morgan Hill Community Development Department
17575 Peak Avenue
Morgan Hill, CA 95037

**RE: COYOTE NEW WAREHOUSE PROJECT
MORGAN HILL, CALIFORNIA
STATEMENT OF PROPOSED OPERATIONS**

Dear Elaine;

The Santa Clara Valley Water District (District) proposes to design, permit and build the Coyote Warehouse Project (the Project) on a parcel solely owned by the District but adjacent and interconnected to the Bureau of Reclamation (Reclamation) federally owned Coyote Pumping Station. Underground utilities and vehicular travel would interconnect between the two parcels. The Project would consolidate and provide dedicated indoor and outdoor storage for materials and activities currently located throughout the two parcels. Functionally the project will:

1. Create an indoor storage space for water pipe and appurtenances (valves, gaskets, pumps, hoses, disinfection equipment, electrical supplies, and control systems supplies) as well as allowing for better organization and more efficient moving of supplies stored outdoors and stockpiles of soils, rocks, sand, gravel, and miscellaneous construction debris.
2. Relocate supplies stored at the adjacent Pacheco Pumping Plant, Reclamation's workshop building and pump station building, to the storage facility on the District owned property.

The Project would involve the new construction of approximately 32 foot high and 21,600 square foot, metal framed warehouse building. The foundation and sidewalls of the warehouse would be constructed of an 8 foot high concrete masonry unit, with rib panel metal siding extending from the masonry unit. The ribbed panel metal roof would be equipped with skylights.

District and vendor/delivery vehicles would access the warehouse via one of the three roll up doors. Two roll up doors would be approximately 28 feet wide by 17 feet tall and the third would be approximately 12 feet wide by 17 feet tall. Each of these entrances may include a canopy. Areas surrounding the warehouse building would be paved for vehicle access and parking.

Operations at the Project site would be similar to the existing operations, with the transportation and storage of materials at the site. The site would continue to operate from approximately 6:30 a.m. to 4:00 p.m. five days a week. The existing District employees would remain at the Project site. The number of existing employees varies depending on the activities planned for that day. Typically there are three to 8 employees at any given time. Operation of the Project would not introduce any new daily employee traffic trip or delivery truck trips. Construction equipment would continue to be used and

Corporate Office

3244 Brookside Rd., Ste. 100
Stockton, CA 95219
t: 209.943.2021 f: 209.942.0214

San Jose

111 N. Market St., Ste. 300
San Jose, CA 95113
t: 408.754.0121

Sacramento

109 Scripps Drive
Sacramento, CA 95825
t: 916.520.2777



transferred at the Project site. The warehouse will not store hazardous materials such as oils, fuels, or paints.

The above subjects have been studied and documented in the draft CEQA document that has been provided with the Conditional Use Permit application package. Please reference the CEQA document and associated studies for further detailed information and justification.

We look forward to working with you and the City of Morgan Hill team to gain the approvals necessary for this critical infrastructure support facility. If you have any questions regarding this letter, please do not hesitate to call me directly.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul J. Schneider".

Paul J. Schneider, QSD, QSP, P.E.

SIEGFRIED

Attachment: Statement of Proposed Operations (1352 : Conditional Use Permit for Coyote Warehouse Project)

Corporate Office

3244 Brookside Rd., Ste. 100
Stockton, CA 95219
t: 209.943.2021 f: 209.942.0214

San Jose

111 N. Market St., Ste. 300
San Jose, CA 95113
t: 408.754.0121

Sacramento

109 Scripps Drive
Sacramento, CA 95825
t: 916.520.2777



October 7, 2016

Elaine Collins
City of Morgan Hill Community Development Department
17575 Peak Avenue
Morgan Hill, CA 95037

**RE: COYOTE NEW WAREHOUSE PROJECT
MORGAN HILL, CALIFORNIA
LETTER OF JUSTIFICATION – CONDITIONAL USE PERMIT**

Dear Elaine;

The Santa Clara Valley Water District (District) proposes to design, permit and build the Coyote Warehouse Project (the Project) on a parcel solely owned by the District but adjacent and interconnected to the Bureau of Reclamation (Reclamation) federally owned Coyote Pumping Station. Underground utilities and vehicular travel would interconnect between the two parcels. The Project would consolidate and provide dedicated indoor and outdoor storage for materials and activities currently located throughout the two parcels.

The Project would involve the new construction of approximately 32 foot high and 21,600 square foot, metal framed warehouse building. The foundation and sidewalls of the warehouse would be constructed of an 8 foot high concrete masonry unit, with rib panel metal siding extending from the masonry unit. The ribbed panel metal roof would be equipped with skylights.

The following address the required justification questions:

1. The District parcel is currently zoned PF which a zone that is intended for the proposed use. In addition the site is currently being used in a similar capacity. In the opinion of the District the site is suitable for the proposed use.
2. The District and vendor/delivery vehicles currently access the site via a driveway and gate system located off of Peet Road. The vehicles utilize internal site circulation roads within both the Bureau and District parcels to perform the day to day tasks that are currently performed on the site. This project outside of construction activities will not impact or increase the current traffic circulation in and around the project site.
3. The proposed use at the location will not change as a result of the project. The site is currently being used for outdoor parts storage and material storage. The project seeks to consolidate the storage into one facility and improve the organization of the site. The current and future activities will not:
 - Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surround area.

Corporate Office

3244 Brookside Rd., Ste. 100
Stockton, CA 95219
t: 209.943.2021 f: 209.942.0214

San Jose

111 N. Market St., Ste. 300
San Jose, CA 95113
t: 408.754.0121

Sacramento

109 Scripps Drive
Sacramento, CA 95825
t: 916.520.2777



- Impair the utility or value of surrounding properties
 - Be detrimental to public health, safety or welfare
4. The design has been assembled in such a manor to set the building as far as practicable from the surrounding PD residential developments to minimize its visual impact and best fit with the character and use of the pumping plant that existed prior to the surrounding PD developments. In addition screen trees have been added to the project to further reduce the visual impact.
 5. The proposed use will be unoccupied and will not allow sales of any sort.

The above subjects have been studied and documented in the draft CEQA document that has been provided with the Conditional Use Permit application package. Please reference the CEQA document and associated studies for further detailed information and justification.

We look forward to working with you and the City of Morgan Hill team to gain the approvals necessary for this critical infrastructure support facility. If you have any questions regarding this letter, please do not hesitate to call me directly.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul J. Schneider".

Paul J. Schneider, QSD, QSP, P.E.

SIEGFRIED

Corporate Office

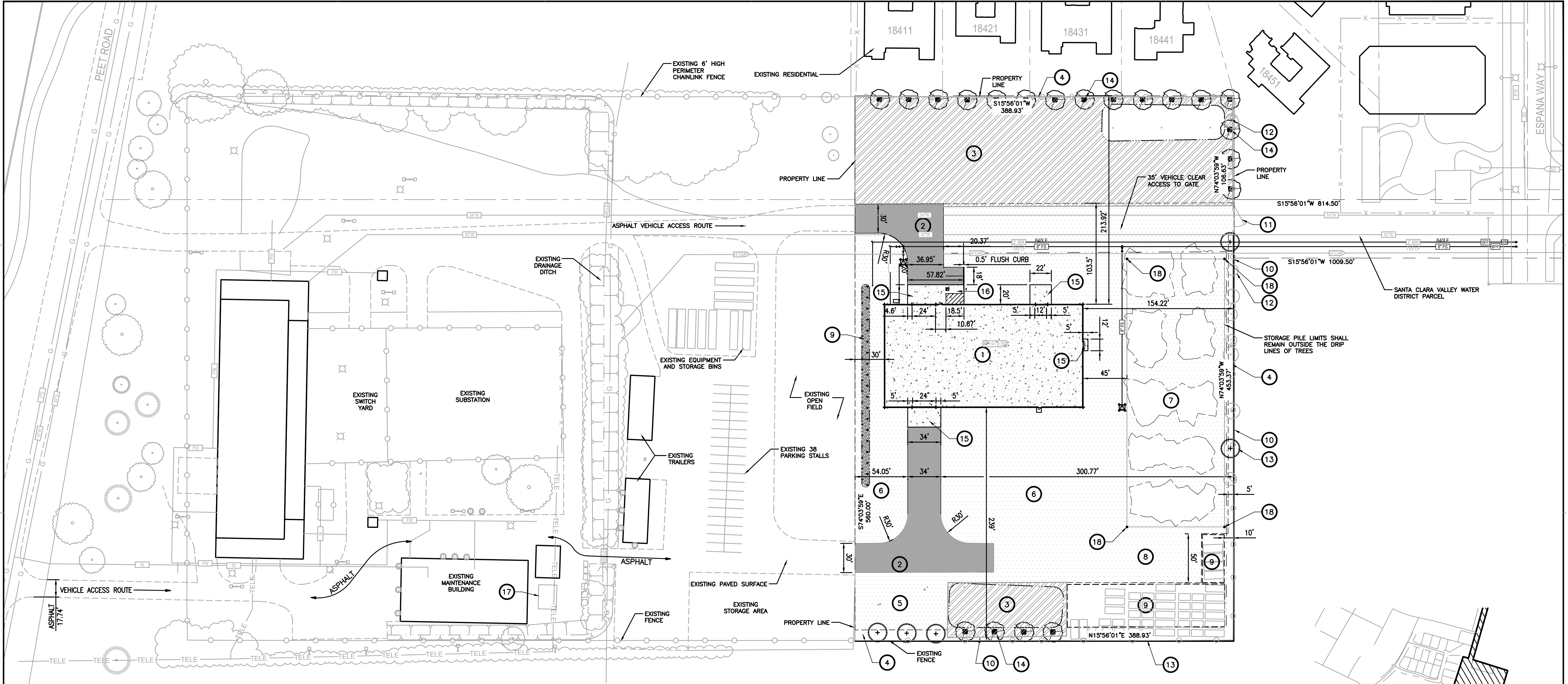
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San Jose, CA 95113
t: 408.754.0121

Sacramento

109 Scripps Drive
Sacramento, CA 95825
t: 916.520.2777



SHEET NOTES:

- | | | | | | |
|---|--|----|--|----|--------------------------------|
| 1 | WAREHOUSE | 9 | PROPOSED BIO-INFILTRATION BASIN | 17 | EXISTING TRASH COLLECTION AREA |
| 2 | ASPHALT PAVEMENT | 10 | 6' CHAINLINK FENCE INSTALLED INSIDE PROPERTY LINE | 18 | ROCK PILE LIMIT MARKER |
| 3 | HYDROSEED | 11 | EXISTING ACCESS GATE | | |
| 4 | 5' WIDE PERIMETER BARK MULCH | 12 | EXISTING PERIMETER SCREEN TREES TO REMAIN | | |
| 5 | STORAGE - GRAVEL | 13 | NEW PERIMETER SCREEN TREES (PLANTED) | | |
| 6 | OPEN YARD - GRAVEL | 14 | NEW PERIMETER SCREEN TREES (RAISED MOVEABLE PLANTERS) | | |
| 7 | PROPOSED RIP RAP STORAGE AREA | 15 | CONCRETE PAD AT DOORS | | |
| 8 | RELOCATED OUTDOOR STORAGE BINS & TANKS | 16 | VAN ACCESSIBLE PARKING WITH TIRE STOPS AND 2 ADDITIONAL STAFF PARKING STALLS | | |

PROJECT DATA:

APPLICANT	: SANTA CLARA VALLEY WATER DISTRICT
ASSESSORS PARCEL NUMBER	: 728-34-008
SITE AREA	: 5.00 ACRES
STRUCTURE SIZE	: 21,624 SF
ZONING	: PF (PUBLIC FACILITIES)
GENERAL PLAN DESCRIPTION	: PF
NUMBER OF SPACES REQUIRED	: N/A
NUMBER OF PARKING SPACES PROVIDED	: 3 (1 VAN ACCESSIBLE ADA)
LOT COVERAGE	
BUILDING %	: 9.93%
PARKING %	: 0.03%
LANDSCAPE %	: 16%
FLOOR AREA RATIO	: 9.93%

REV	DESCRIPTION	DATE	APPR.	REFERENCE INFORMATION AND NOTES

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Stockton, California 95219
209-943-2021
www.siegfriedeng.com

DATE
AUG 2016
DESIGN
PJS
DRAWN
CHECKED



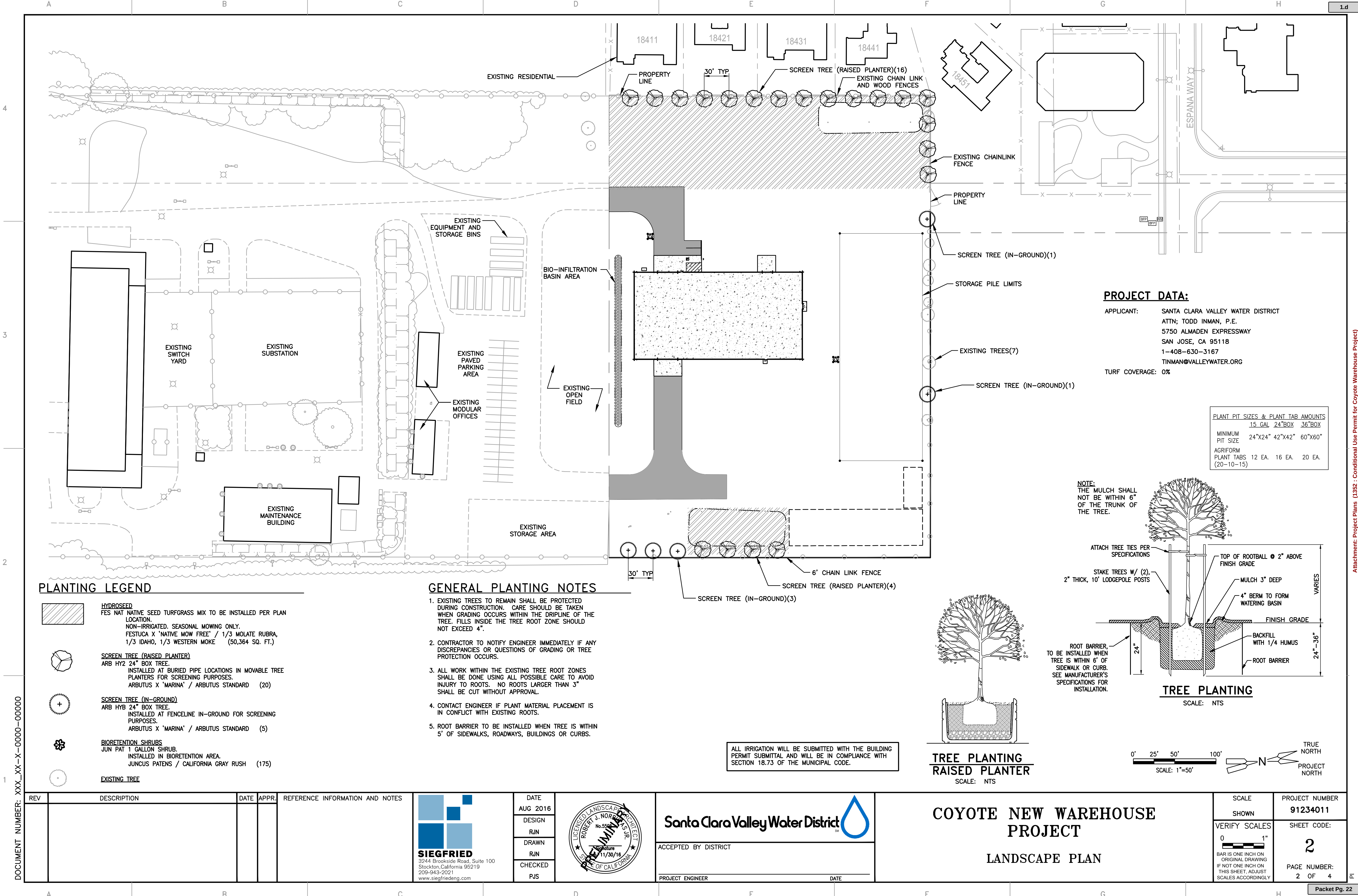
Santa Clara Valley Water District

ACCEPTED BY DISTRICT

PROJECT ENGINEER _____ DATE _____

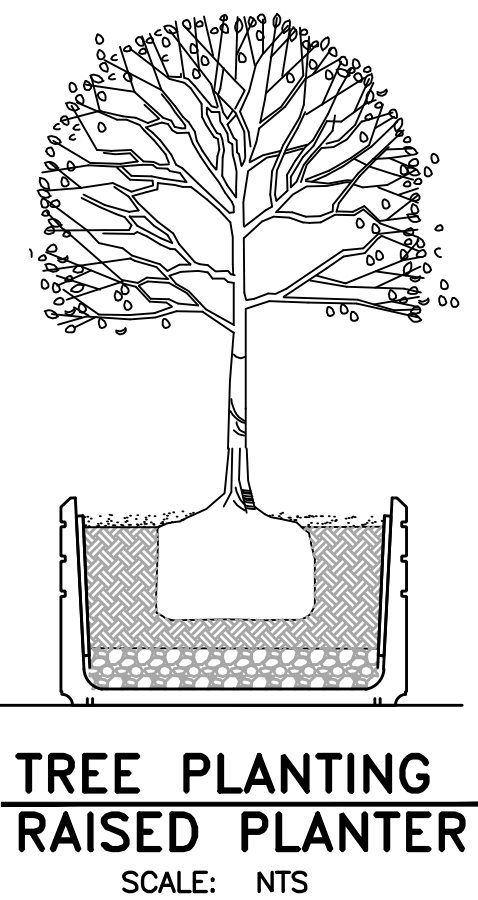
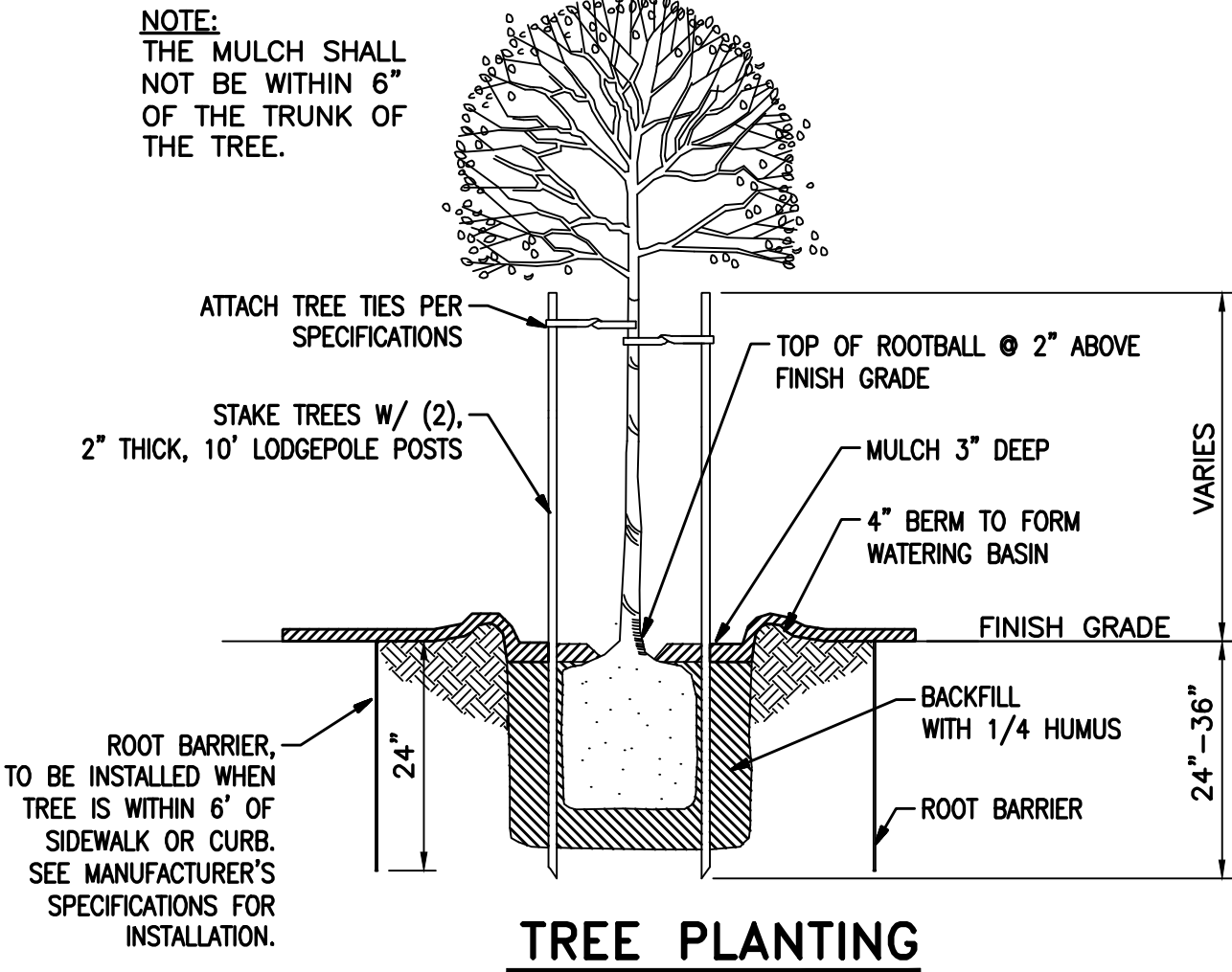
COYOTE NEW WAREHOUSE
PROJECT
SITE PLAN

SCALE SHOWN	PROJECT NUMBER 91234011
VERIFY SCALES 0 25' 50' 100' SCALE: 1"=50'	SHEET CODE: 1
	PAGE NUMBER: 1 OF 4



PROJECT DATA:
APPLICANT: SANTA CLARA VALLEY WATER DISTRICT
ATTN: TODD INMAN, P.E.
5750 ALMADEN EXPRESSWAY
SAN JOSE, CA 95118
1-408-630-3167
TINMAN@VALLEYWATER.ORG
TURF COVERAGE: 0%

PLANT PIT SIZES & PLANT TAB AMOUNTS		
	15 GAL	24"BOX
MINIMUM PIT SIZE	24"x24"	42"x42"
AGRIFORM PLANT TABS	12 EA.	16 EA.
	(20-10-15)	20 EA.



ALL IRRIGATION WILL BE SUBMITTED WITH THE BUILDING PERMIT SUBMITTAL AND WILL BE IN COMPLIANCE WITH SECTION 18.73 OF THE MUNICIPAL CODE.

PLANTING LEGEND

- HYDROSEED**
FES NAT NATIVE SEED TURFGRASS MIX TO BE INSTALLED PER PLAN LOCATION.
NON-IRRIGATED. SEASONAL MOWING ONLY.
FESTUCA X 'NATIVE MOW FREE' / 1/3 MOLATE RUBRA,
1/3 IDAHO, 1/3 WESTERN MOKE (50,364 SQ. FT.)
- SCREEN TREE (RAISED PLANTER)**
ARB HY2 24" BOX TREE.
INSTALLED AT BURIED PIPE LOCATIONS IN MOVABLE TREE PLANTERS FOR SCREENING PURPOSES.
ARBUS X 'MARINA' / ARBUS STANDARD (20)
- SCREEN TREE (IN-GROUND)**
ARB HYB 24" BOX TREE.
INSTALLED AT FENCELINE IN-GROUND FOR SCREENING PURPOSES.
ARBUS X 'MARINA' / ARBUS STANDARD (5)
- BIORETENTION SHRUBS**
JUN PAT 1 GALLON SHRUB.
INSTALLED IN BIORETENTION AREA.
JUNCUS PATENS / CALIFORNIA GRAY RUSH (175)
- EXISTING TREE**

GENERAL PLANTING NOTES

- EXISTING TREES TO REMAIN SHALL BE PROTECTED DURING CONSTRUCTION. CARE SHOULD BE TAKEN WHEN GRADING OCCURS WITHIN THE DRIPLINE OF THE TREE. FILLS INSIDE THE TREE ROOT ZONE SHOULD NOT EXCEED 4".
- CONTRACTOR TO NOTIFY ENGINEER IMMEDIATELY IF ANY DISCREPANCIES OR QUESTIONS OF GRADING OR TREE PROTECTION OCCURS.
- ALL WORK WITHIN THE EXISTING TREE ROOT ZONES SHALL BE DONE USING ALL POSSIBLE CARE TO AVOID INJURY TO ROOTS. NO ROOTS LARGER THAN 3" SHALL BE CUT WITHOUT APPROVAL.
- CONTACT ENGINEER IF PLANT MATERIAL PLACEMENT IS IN CONFLICT WITH EXISTING ROOTS.
- ROOT BARRIER TO BE INSTALLED WHEN TREE IS WITHIN 5' OF SIDEWALKS, ROADWAYS, BUILDINGS OR CURBS.

REV	DESCRIPTION	DATE	APPR.	REFERENCE INFORMATION AND NOTES

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Stockton, California 95219
209-943-2021
www.siegfriedeng.com

DATE
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CHECKED
PJS

Santa Clara Valley Water District

ACCEPTED BY DISTRICT

PROJECT ENGINEER _____ DATE _____

COYOTE NEW WAREHOUSE PROJECT

LANDSCAPE PLAN

SCALE SHOWN
0 25' 50' 100'
SCALE: 1"=50'

VERIFY SCALES
BAR IS ONE INCH ON ORIGINAL DRAWING
IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY

PROJECT NUMBER
91234011

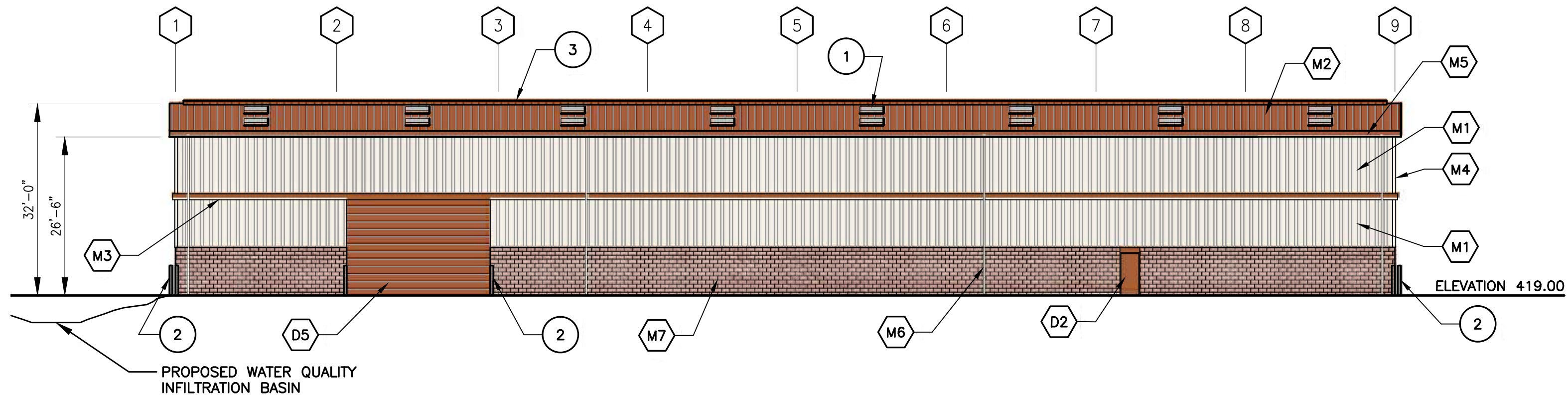
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2

PAGE NUMBER:
2 OF 4

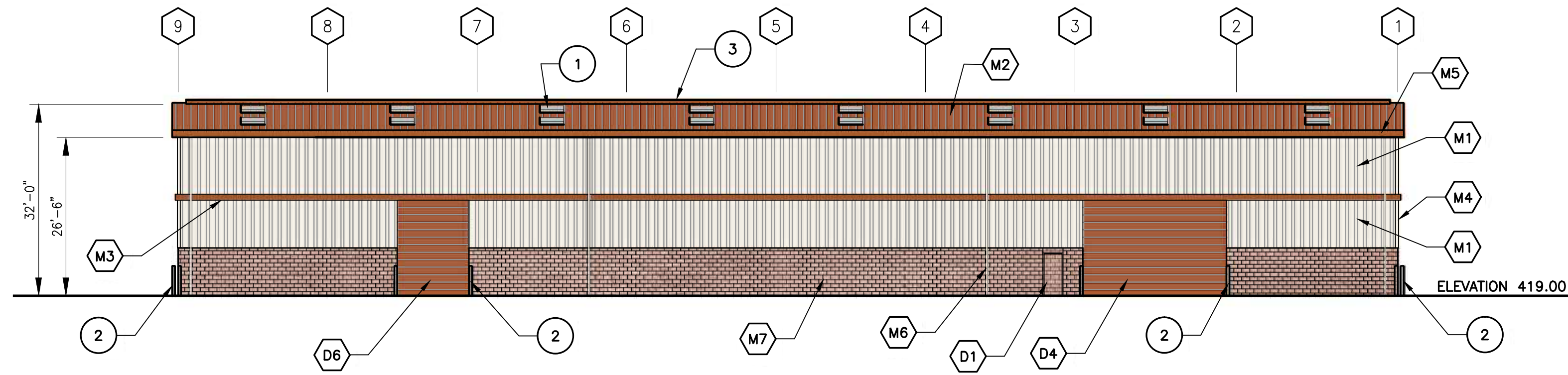
DOCUMENT NUMBER: XXX-XX-X-0000-00000

Attachment: Project Plans (1352 : Conditional Use Permit for Coyote Warehouse Project)

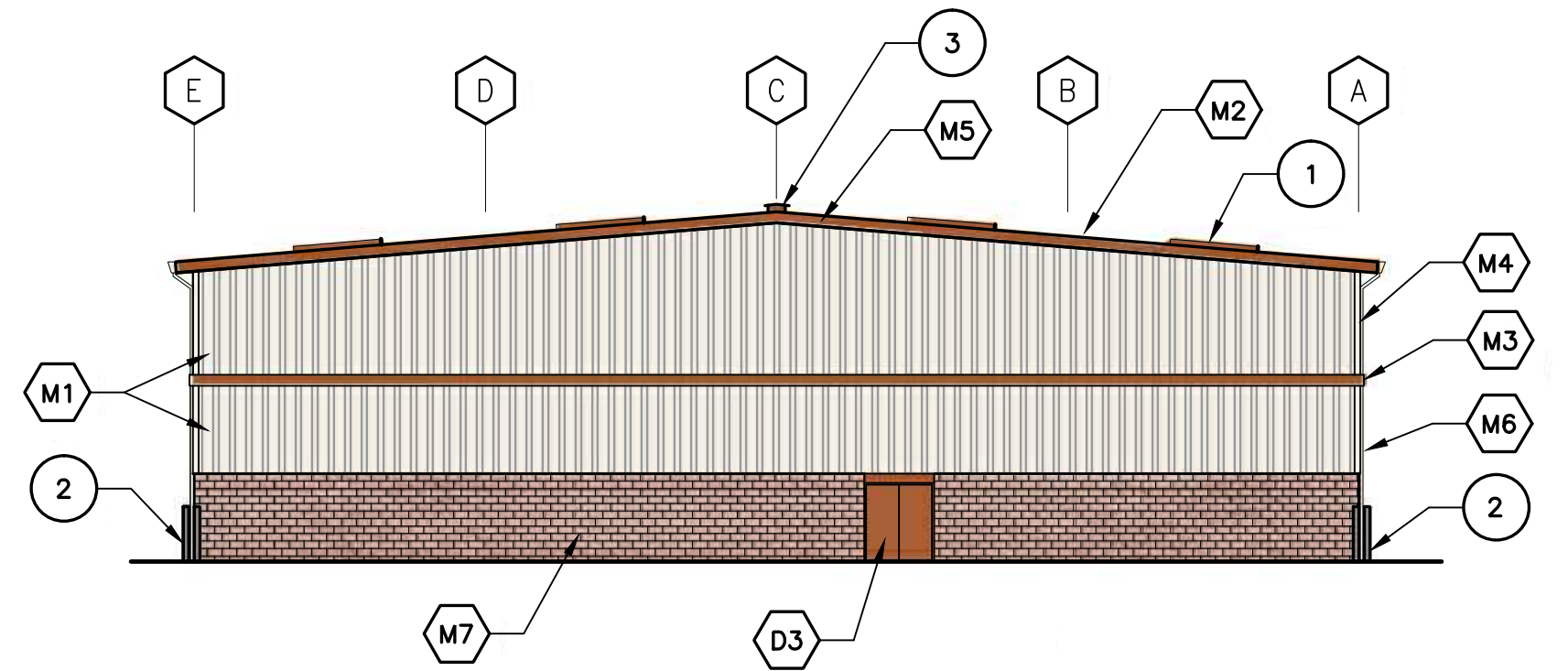
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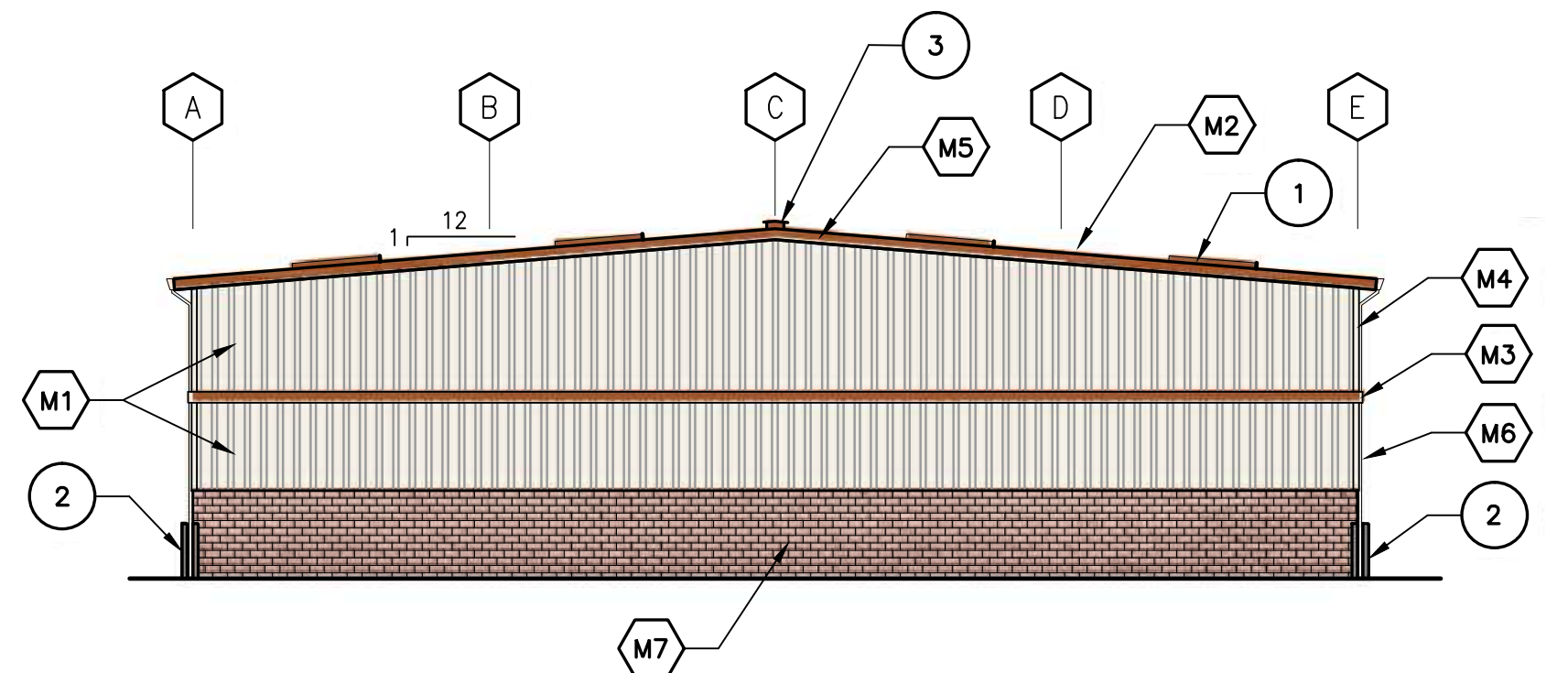
ELEVATION **A** EAST
A-01 SCALE: 1/16" = 1'-0"



ELEVATION **C** WEST
A-01 SCALE: 1/16" = 1'-0"



ELEVATION **B** NORTH
A-01 SCALE: 1/16" = 1'-0"



ELEVATION **D** SOUTH
A-01 SCALE: 1/16" = 1'-0"

MATERIAL FINISH SCHEDULE

METAL BUILDING					DOORS — EXTERIOR FACE				COMMENTS
DESIGNATION	MATERIAL	FINISH	COLOR	APPLICATION	DESIGNATION	FINISH	COLOR	APPLICATION	
M1	RIBBED WALL PANELS	PAINT	P-1	FACTORY	D1	PAINT	P-1	ON SITE	
M2	RIBBED ROOF PANELS	PAINT	P-2	FACTORY	D2	PAINT	P-1	ON SITE	
M3	HORIZONTAL METAL TRIM	PAINT	P-1	FACTORY	D3	PAINT	P-1	ON SITE	
M4	CORNER METAL TRIM	PAINT	P-1	FACTORY	D4	PAINT	P-1	ON SITE	
M5	METAL GUTTERS & FASCIAS	PAINT	P-2	FACTORY	D5	PAINT	P-1	ON SITE	
M6	METAL DOWNSPOUTS	PAINT	P-1	FACTORY	D6	PAINT	P-1	ON SITE	
M7	CMU WALL	SPLIT FACE BLOCK	M-1	---					

COLOR LIST

P-1	VARCO PRUDEN EGYPTIAN WHITE OR APPROVED EQUAL	P-2	VARCO PRUDEN COLONIAL RED OR APPROVED EQUAL
M-1	BASALITE MEDIUM WT. COLOR #457 OR APPROVED EQUAL		

NOTES:

1. REFER TO MATERIAL FINISH SCHEDULE

KEY NOTE LEGEND:

- 1 SKYLIGHTS
- 2 NEW 5' HIGH, 6" DIAMETER, CONCRETE FILLED, STEEL PIPE BOLLARD
- 3 CONTINUOUS RIDGE VENT

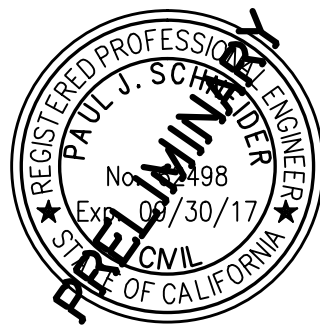
PROJECT DATA:

APPLICANT: SANTA CLARA VALLEY WATER DISTRICT
ATTN: TODD INMAN, P.E.
5750 ALMADEN EXPRESSWAY
SAN JOSE, CA 95118
1-408-630-3167
TINMAN@VALLEYWATER.ORG

REV	DESCRIPTION	DATE	APPR.	REFERENCE INFORMATION AND NOTES



DATE	AUG 2016
DESIGN	PJS
DRAWN	
CHECKED	



Santa Clara Valley Water District

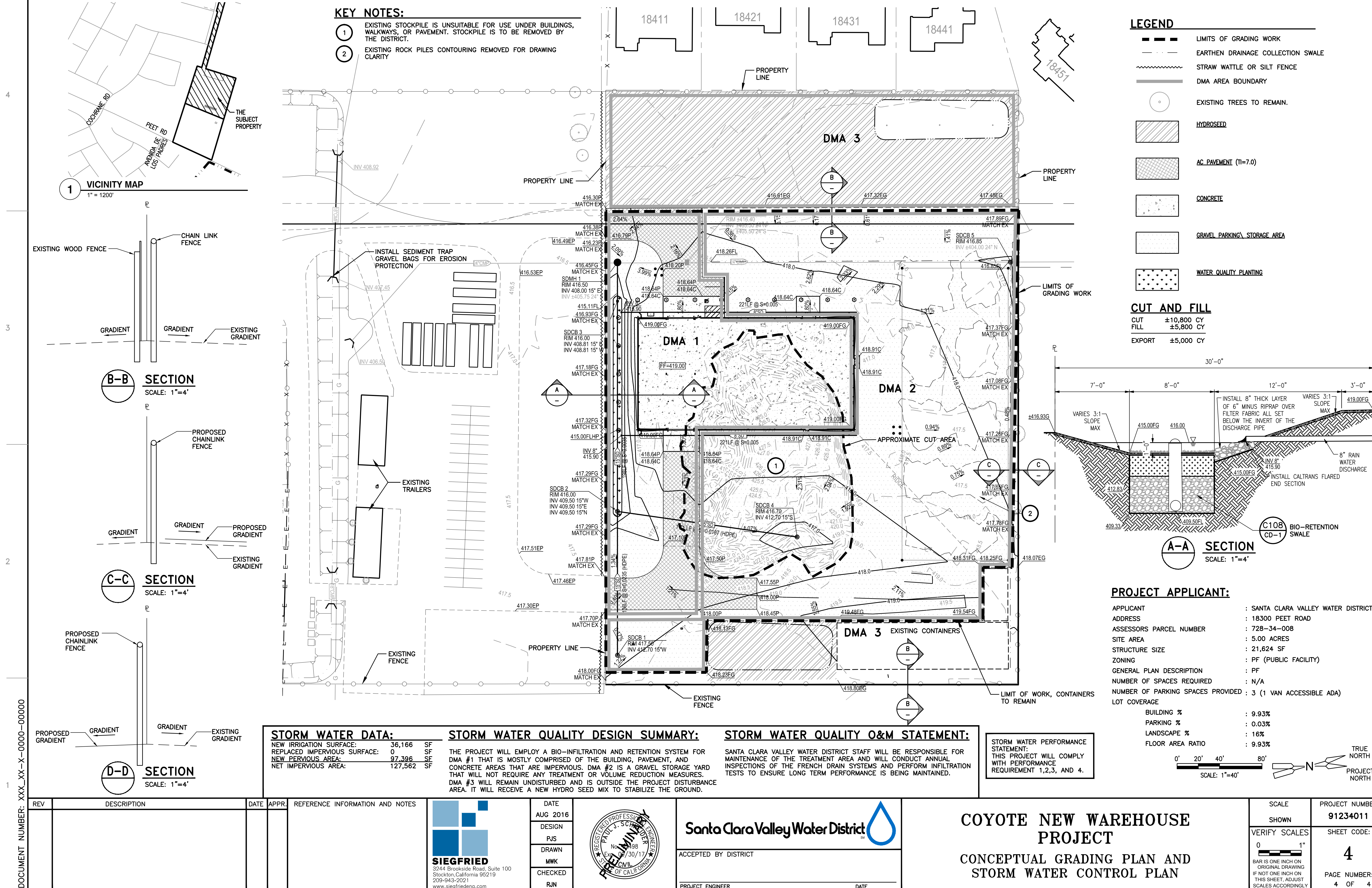
ACCEPTED BY DISTRICT

PROJECT ENGINEER DATE

COYOTE NEW WAREHOUSE PROJECT

ILLUSTRATIVE BUILDING ELEVATIONS

SCALE SHOWN	PROJECT NUMBER 91234011
VERIFY SCALES	SHEET CODE: 3
0 1" BAR IS ONE INCH ON ORIGINAL DRAWING IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY	PAGE NUMBER: 3 OF 4



DOCUMENT NUMBER: XXX-XX-X-0000-00000

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 17- 44

**ADOPTING THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND
THE MITIGATION MONITORING AND REPORTING PROGRAM FOR
THE COYOTE WAREHOUSE PROJECT**

WHEREAS, the Santa Clara Valley Water District (District), the lead agency per the California Environmental Quality Act (CEQA), has prepared an Initial Study/Mitigated Negative Declaration (IS/MND) for the Santa Clara Valley Water District Coyote Warehouse Project (Project); and

WHEREAS, the District received no public comments on the Draft IS/MND during the 30-day public review and comment period; and

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Santa Clara Valley Water District that:

A. ADOPT THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

1. The Board of Directors has reviewed and considered the information contained in the Final IS/MND and the record and other matters deemed material and relevant prior to making a decision on the Project.
2. The Final IS/MND has been completed in compliance with CEQA and reflects the independent judgment and analysis of the District.
3. Changes have been incorporated into the Project which avoid and/or substantially lessen the potentially significant environmental effects identified in the Final IS/MND.
4. The analysis and conclusions in the Final IS/MND are supported by substantial evidence in the record.
5. Consistent with Public Resources Code Section 21081.6(a)(2), the documents which constitute the record of proceedings for approving this Project are located with the Clerk of the Board at 5700 Almaden Expressway, San Jose, California.

B. ADOPT THE MITIGATION MONITORING AND REPORTING PROGRAM

A Mitigation Monitoring and Reporting Program (MMRP) for the Project, Section 5 in the Final IS/MND, is hereby adopted in accordance with CEQA Guidelines Section 15074 and pursuant to Public Resources Code Section 21081.6. Implementation of the MMRP, to avoid or substantially lessen significant environmental effects, is hereby required as a condition of approval of the Project.

BE IT FURTHER RESOLVED that the Chief Executive Officer is hereby authorized and directed, on behalf of the District's Board of Directors, to execute any such documents and to perform any such acts as may be deemed necessary or appropriate to accomplish the intention of this resolution.

Adopting the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Coyote Warehouse Project

Resolution No. 17- 44

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District on the 27th day of June 2017 by the following vote:

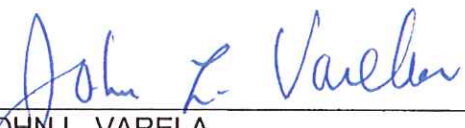
AYES: Directors T. Estremera, R. Santos, N. Hsueh, B. Keegan, L. LeZotte,
J. Varela

NOES: Directors None

ABSENT: Directors G. Kremen

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By: 
JOHN L. VARELA
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk/Board of Directors

COYOTE WAREHOUSE PROJECT

Final Initial Study / Mitigated Negative Declaration

State Clearinghouse # 2017032018

Prepared for
Santa Clara Valley Water District

May 2017



COYOTE WAREHOUSE PROJECT

Final Initial Study / Mitigated Negative Declaration

State Clearinghouse # 2017032018

Prepared for
Santa Clara Valley Water District

May 2017



1425 N. McDowell Boulevard
Suite 200
Petaluma, CA 94954
707.795.0900
www.esassoc.com

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San Diego
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Tampa

140273

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CHAPTER 1

Introduction

1.1 Organization of the Document

This document is organized to assist the reader in understanding the potential impacts that the proposed project may have on the environment and to fulfill the California Environmental Quality Act (CEQA).

Chapter 1, Introduction, describes this document's purpose under CEQA, describes the public participation process, and summarizes the applicable regulatory requirements.

Chapter 2, Project Description, provides an introduction to the Project with Project background, needs and objectives, and discusses the proposed facilities.

Chapter 3, Environmental Checklist, presents the CEQA Initial Study Environmental Checklist, analyzes environmental impacts resulting from the Project and describes the mitigation measures that would be incorporated into the project to avoid or reduce impacts to less-than-significant levels.

Chapter 4, List of Preparers, presents the individuals who have contributed to this Initial Study/Mitigated Negative Declaration.

Chapter 5, Mitigation Monitoring and Reporting Program, is the Project's Mitigation, Monitoring and Reporting Program (MMRP).

1.2 Purpose of the Mitigated Negative Declaration

The Santa Clara Valley Water District (District), acting as the Lead Agency under CEQA, is proposing to design and construct the Coyote Warehouse Project on a District-owned parcel adjacent to the Coyote Pumping Plant, which is owned by the U.S. Bureau of Reclamation.

The purpose of the following Initial Study (IS) was to provide a basis for deciding whether to prepare an Environmental Impact Report, a Mitigated Negative Declaration (MND), or a Negative Declaration. Based on its findings, the District determined that a MND would satisfy the requirements of CEQA (Public Resources Code, Division 13, Sections 21000-21177) and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000-15387), as noted below.

CEQA encourages Lead Agencies and applicants to modify their projects to avoid significant adverse impacts to the environment.

Section 15063(d) of the CEQA Guidelines states the content requirements of an IS as follows:

15063(d) Contents. An Initial Study shall contain in brief form:

- (1) A description of the Project include the location of the Project;
- (2) An identification of the environmental setting;
- (3) An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries;
- (4) A discussion of the ways to mitigate the significant effects identified, if any;
- (5) An examination of whether the Project would be consistent with existing zoning, plans, and other applicable land use controls;
- (6) The name of the person or persons who prepared or participated in the Initial Study.

1.3 Decision to Prepare a Mitigated Negative Declaration for this Project

As noted above, this Project is subject to the requirements of CEQA and the District is the CEQA Lead Agency for this Project. Prior to making a decision to approve this Project, the District must identify and document the potential significant environmental effects of the Project in accordance with CEQA. This Initial Study (IS)/Mitigated Negative Declaration (MND) has been prepared under the direction of the District to fulfill these requirements.

The IS analysis indicates that some impacts would be potentially significant but that project changes and proposed mitigation measures would result in those impacts being reduced to less-than-significant levels. In accordance with CEQA Guidelines Section 15070, a MND is the appropriate document for this Project because the IS identifies potentially significant effects; however:

- a. Revisions to the project plan were made that would avoid, or reduce, the effects to a point where clearly no significant effects would occur, and;
- b. There is no substantial evidence that the project, as revised, may have a significant effect on the environment.

1.4 Public Review Process

The Draft IS/MND was circulated to local and state agencies, interested organizations, and individuals who might have had interest in, and wished to review and provide comments on, the project description, the proposed mitigation measures, or other aspects of the report. The 30-day

public review period per CEQA Guidelines Section 15105(b) occurred from March 3, 2017, through April 3, 2017.

The Draft IS/MND and supporting documentation were posted on the District website during that period. Printed copies of the Draft IS/MND and supporting documents were also available for review at:

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118 2. City of Morgan Hill
Planning Division
17575 Peak Avenue
Morgan Hill, CA 95037-4128 | <ol style="list-style-type: none"> 3. City of Morgan Hill Library
660 W Main Ave
Morgan Hill, CA 95037 4. SCVWD Website: http://www.valleywater.org/PublicReviewDocuments.aspx 5. Via written request for a paper copy or CD from the District |
|--|---|

Written comments or questions regarding the Draft IS/MND were requested by the District and directed to the attention of Mr. Mike Coleman at the address provided below.

Michael F. Coleman, AICP
Environmental Planner
Santa Clara Valley Water District
5750 Almaden Expressway
Phone: (408) 630-2695
e-mail: mcoleman@valleywater.org

During the required 30-day review period, no comments requiring changes to the project description, environmental analysis, or mitigative actions were received by the District. Acknowledge of the Project's CEQA action with no comment was provided from the following agencies:

- Santa Clara Valley Transportation Authority
- Central Coast Regional Water Quality Control Board
- State Clearinghouse, on behalf of State agencies

No comments were received on this Project. Accordingly, the District did not make any further revisions to the Draft IS/MND, with the exception of revising the title blocks of the report figures to refer to the Project and site consistently through the document. The revised figures are"

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- Figure 2-2, Site Photos, page 2-4
- Figure 2-3, Project Site Plan, page 2-7
- Figure 3-1, View Looking South Towards the Coyote Pumping Plant, and View of Miscellaneous Materials Located on the Northeastern Portion of the Coyote Pumping Plant, page 3-6

- Figure 3-2, View of the Project Site Looking Northwest, and View from the Project Site Looking South Towards the Coyote Pumping Plant, page 3-7
- Figure 3-3, View of the Project Site Looking North, and View Looking Across the Project Site West to East, page 3-8
- Figure 3-4, View from the Northeast Corner of the Project Site Looking West, and Views of Pipelines Stored on the Project Site, page 3-9

1.5 Agencies Use of this Document

CEQA Responsible Agencies are State and local agencies that have some responsibility or authority for carrying out or approving a project. In many instances, these public agencies must make a discretionary decision to issue a local permit, provide right-of-way or encroachment, or provide funding or other resources that are critical to the execution of a project. Trustee agencies are State agencies that have the authority by law for the protection of natural resources held in trust for the public.

This IS/MND is intended to assist State and local agencies to carry out their responsibilities for permit review or approval authority over various aspects of a project. This Project would likely require specific permitting and/or review by the agencies listed in **Table 1-1**.

The U.S. Bureau of Reclamation, owner of the adjacent parcel upon which the Coyote Pumping Plant is located, has reviewed the initial land use plans proposed by the District for the Project and has determined that there will be no discretionary “land action” that must be approved by the federal government. Therefore, the National Environmental Policy Act (NEPA) will not be applicable on this project.

**TABLE 1-1
REQUIRED PERMITS AND APPROVALS**

Potential Permit or Approval	Agency
• Conditional Use Permit • Building Permit • Encroachment Permit	City of Morgan Hill
• General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, as amended by Order No. 2010-0014-DWQ & 2012-00060DWQ) • Post-Construction Stormwater Management Requirements for Development Projects (Resolution No. R3-2013-0032)	Central Coast Regional Water Quality Control Board (Region 3)
• Certification of Compliance with the Final Santa Clara Valley Habitat Plan	Santa Clara Valley Habitat Agency

CHAPTER 2

Project Description

2.1 Introduction and Background

The Santa Clara Valley Water District (District) proposes to design and construct the Coyote Warehouse Project (the Project) on a parcel solely owned by the District that is adjacent to and north of a parcel owned by the U.S. Bureau of Reclamation's (Reclamation), which includes the Coyote Pumping Plant. The Coyote Pumping Plant is part of the Central Valley Project (CVP) that supplies water to the District. Vehicular access provides connectivity between the two parcels. The Project would consolidate and provide dedicated indoor and outdoor storage for materials and activities currently located on the two parcels. In addition, the District currently stores materials at its Pacheco Pumping Plant warehouse (located off of SR 152 at Dinosaur Point Road) as well as its existing primary warehouse (Winfield Warehouse), located at 5905 Winfield Boulevard near the District's Administrative Headquarters (5700 Almaden Expressway) in San Jose. The District's Winfield Warehouse (primary District warehouse) is located approximately 50 miles from the San Felipe Division (Pacheco Pumping Plant).

The District and Reclamation entered into a contract for the delivery of CVP water from the San Felipe Division in June, 1977. The first water deliveries of CVP water were received via the San Felipe Division in June of 1987. The maximum contract quantity is 152,500 acre-feet per year. The District and Reclamation have executed an Operations and Maintenance Agreement,¹ under which the District operates and maintains the San Felipe Division facilities, including the Pacheco Pumping Plant, Santa Clara Conduit and Tunnel, and Coyote Pumping Plant.

The Project would involve the new construction of an approximately 32-foot-high and 21,600-square-foot metal framed warehouse building. The foundation and sidewalls of the warehouse would be constructed of an 8-foot-high concrete masonry unit, with rib panel metal siding extending upward from the masonry unit forming the building's shell. The ribbed panel metal roof would cover the structure and be equipped with skylights.

During construction, District and vendor/delivery vehicles would access the warehouse via one of the three roll up doors. Two roll up doors would be approximately 28 feet wide by 17 feet tall and the third would be approximately 12 feet wide by 17 feet tall. Each of these entrances may include a canopy; for purposes of this analysis, it is assumed the canopies would be included. Areas surrounding the warehouse building would primarily be graveled, with the vehicle access being paved or concrete.

¹ Reclamation-District Agreement O&M contract 7-07-20-W0023

2.2 Project Objectives and Need

The purpose of the Project is to create a District storage facility in close proximity to the federal San Felipe Division facilities (i.e., pipes, pump stations) which the District must service and repair under O&M Agreement 7-07-W0023 with Reclamation. The Project objectives include:

1. Creating an indoor storage space for water pipe and appurtenances (valves, gaskets, pumps, hoses, disinfection equipment, electrical supplies, and control systems supplies) as well as allowing for better organization and more efficient moving of supplies stored outdoors, which would include stockpiles of soils, rocks, sand, gravel, and miscellaneous construction debris.
2. Centrally locating dry indoor storage in southern Santa Clara County for storage of parts and organized placement of outdoor materials to reduce vehicle miles traveled and additional trips, allowing District staff to work more efficiently.
3. Relocating supplies stored at Pacheco Pumping Plant, as well as Reclamation's buildings on the federal property, to a permanent storage facility on the District-owned parcel located adjacent to the existing Coyote Pumping Plant in the City of Morgan Hill.

2.3 Project Location and Setting

The Project is located at 18300 Peet Road in the City of Morgan Hill in Santa Clara County (**Figure 2-1**). The actual Project site is a District-owned 8-acre parcel (assessor parcel number [APN] 728-340-08) adjacent north of Reclamation's Coyote Pumping Plant parcel (APN 728-340-01). Access to the Project site is gained through this adjacent parcel. The Project site does not currently have any permanent structures and is currently used by the District for stockpiling soils, rocks, and miscellaneous debris, plus storage of water pipe and pipeline appurtenances (see **Figure 2-2**). The northern perimeter of this site is used for rock storage, with soil stockpiles located beyond that to the south. The quantity of materials stockpiled on the Project site varies as soil and rock are removed or brought to the site in response to District maintenance needs. The western perimeter, as well as a portion of the eastern perimeter, is used to store water pipe and pipeline appurtenances (including storage of water pipeline segments below ground). Pipe materials are also stored in the northeastern corner.

The approximately 10-acre Coyote Pumping Plant site owned by Reclamation is located between the District's parcel and Peet Road. The Coyote Pumping Plant parcel is fenced with gated access along Peet Road and includes a substation, switching yard, maintenance building, two office trailers, several equipment storage bins, open ground storage areas, and improved and unimproved parking.

The Coyote Pumping Plant and the District owned parcel are both designated as Public Facilities (PF) in both the City of Morgan Hill General Plan Land Use Diagram (City of Morgan Hill, 2012a) and the City of Morgan Hill Zoning Map (City of Morgan Hill, 2012b).



SOURCE: Santa Clara County, 2016

Coyote Warehouse Project
Figure 2-1
 Coyote Warehouse Project



View of the Project site from the south east corner looking northwest.



View from the Project site looking south towards the portion of the Coyote Pumping Plant.

SOURCE: ESA

Coyote Warehouse Project

Figure 2-2
Site Photos

A large residential development is located northwest of the Project site with five single-family properties adjacent to the wooden fence line of the Project site. To the north, east and west, the land is undeveloped with open spaces and agricultural uses. More single-family residential neighborhoods are located to the south across Peet Road.

2.4 Proposed Project

The Project would construct a warehouse on the District-owned parcel in the City of Morgan Hill to store the District's pipeline parts and other materials used for the maintenance of District and Reclamation water facilities (see **Figure 2-3**). The Project would consolidate materials and activities currently at the site and adjacent Coyote Pumping Plant. The project would not result in an increase in staff or activities at the site.

Warehouse Building

The Project would involve the construction of new approximately 32-foot-high and 21,600-square-foot metal-framed warehouse building with concrete foundation. The façade would be similar in style to the structures on the Coyote Pumping Plant site. The warehouse would be constructed of an 8-foot-high concrete masonry unit, with rib panel metal siding extending upward from the concrete masonry unit. The ribbed panel metal roof would be equipped with skylights. Once constructed, District and delivery vehicles would access the warehouse interior via one of the three roll up doors. Two roll up doors would be approximately 28 feet wide by 17 feet tall; the third would be approximately 12 feet wide by 17 feet tall. Each of these entrances may include a canopy; this analysis assumes the canopies would be included in the Project. Areas surrounding the warehouse building would be paved for vehicle access and parking. The warehouse would be constructed in compliance with California Green Building Standards.

The warehouse interior would be fitted with pallet racks, bins, and shelving areas for small parts. As required by law, the interior would also be fitted with sprinklers for fire suppression, with hydrants outside for the same purpose. There would be no interior finished space or restrooms at this time as part of the Project. However, while not currently anticipated, the District may consider future interior improvements that could involve permitted space such as restrooms, offices, etc.²

The Project would include wall mounted lighting fixtures on the exterior of the warehouse for use during emergencies, when urgent repairs are required on the District's distribution system. The mounted fixtures would be designed to direct light downward and control light trespass onto adjacent properties. The Project does not include pole mounted lighting. Lighting fixtures and use would comply with site design requirements of the City of Morgan Hill.

² This IS/MND does not include analysis of such improvements; additional CEQA actions could be required in the future should these improvements trigger the need for analysis.

Storage Areas

As discussed above, the Project site (District-owned parcel) is currently used for the outdoor storage of pipe,³ pipeline appurtenances, and other construction materials. These materials can include rip-rap, construction spoils, sand, gravel, and aggregate base rock in varying quantities depending on the District's needs at a given time. The rip-rap and rock storage area along the northern perimeter of the site would remain unchanged and would continue. The open storage area along the western perimeter would continue to be used for the storage of pipe and pipeline appurtenances. The eastern side of the Project site would be used for gravel and outdoor bin and tank storage. The outdoor bins and tanks would be stored in enclosures which would block them from view and designed to be visually consistent with the warehouse. Exposed ground surfaces on the site would be hydroseeded for erosion control.

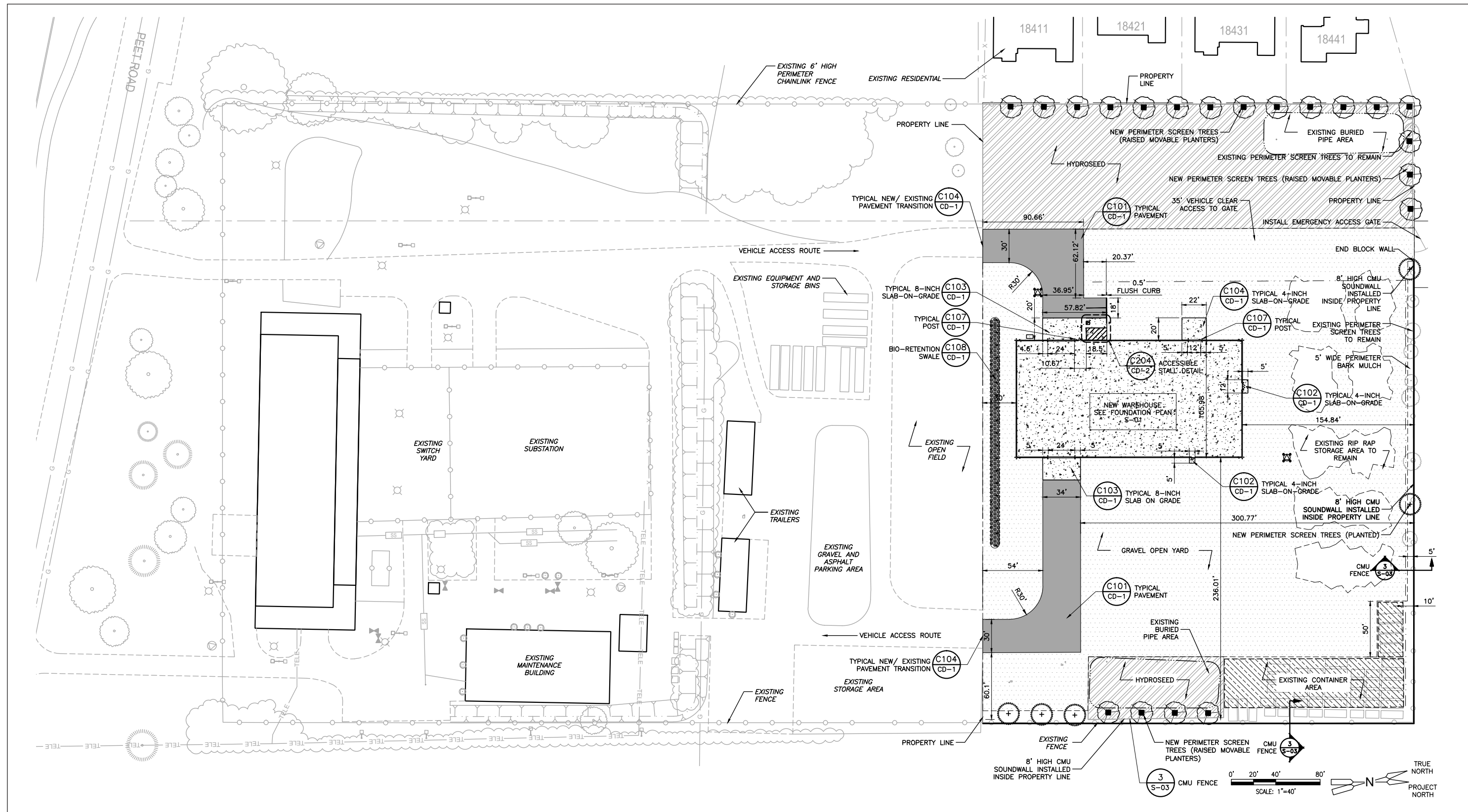
Perimeter

New perimeter screening would include planted trees and raised moveable planters. The perimeter trees in the areas of underground pipe storage would be of a size comparable to the planted trees, but would remain in the movable planters. This would allow them to be moved for excavation and access, thereby avoiding damage to the trees and their roots. Landscaping would consist of species with low water and maintenance needs. Existing trees located along the north end would remain in place. The perimeter would also be laid with approximately 5 feet of bark mulch. An approximately 8-foot-high concrete masonry unit (CMU) sound wall would be installed along the inside of the property line on the north and east side of the Project site to meet the City's site development standards.

Access

Primary access to the Project site would be from the two existing Peet Road access points into the Coyote Pumping Plant, which are controlled by locked gates. For on-site circulation, vehicles would enter the eastern gate and exit through the western gate on the Reclamation parcel. Delivery vehicles would approach the warehouse building from the south and east, enter and pass through the building east-to-west through the roll-up doors, and exit to the west and south. A turn-around pad would be located at the west vehicle access. Within the Coyote Pumping Plant site, asphalt driveways lead north from the Peet Road access to the separate District-owned parcel and Project site. Within the Project site, the driveways would be paved with asphalt. An existing gate that allows access to the aqueduct from within the Project site is located near the northwest corner of the site. This gate would be replaced as part of the Project. Access to this gate, as well as interior site access in general on the District property would be graveled.

³ Some of this pipe is stored below ground to prevent deterioration resulting from exposure to weather.



SOURCE: Siegfried, 2016

Coyote Warehouse Project

Figure 2-3
Project Site Plan

Attachment: Final Initial Study (1352 : Conditional Use Permit for Coyote Warehouse Project)

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Utilities

The Project would require utilities, such as electrical power, data lines, stormwater lines and drains, and water. No sanitary sewer or natural gas service would be provided on the Project site. It is assumed that any office, restroom, workshop, or other inhabited spaces at the Coyote Pumping Plant site would remain on Reclamation property, as is currently the case.

The Project would connect to the City of Morgan Hill's water system. New water lines for fire suppression and irrigation service would extend from the residential neighborhood on Espana Way to the north and west onto the District property. Two fire hydrants would be installed, as well as fire sprinklers in the warehouse.

Stormwater facilities would continue to discharge directly into an existing corrugated metal drainage pipe that begins in a drainage swale due south of the District parcel on the Reclamation parcel, and through the District parcel, and off site to the north. The post construction stormwater drainage and discharges would be handled in accordance with Stormwater Management Guidance Manual for Low Impact Development (LID) and Post-Construction Requirements. These guidance documents present the current requirements set forth in the Central Coast Regional Water Quality Control Board Resolution No. R3-2013-0032 addressing stormwater runoff. The site would be graded to segregate disturbed areas from undisturbed areas, which is the basis for determining compliance with the five performance criteria outlined in the Resolution.

The areas found to require stormwater treatment measures to comply with the Resolution's performance criteria have been routed to drain south to an engineered bio-infiltration feature at the southern District parcel boundary. This LID feature would meet the performance requirements, as well as those of the City of Morgan Hill, and have been incorporated in the design and site plan (see Figure 2-3). Located immediately to the south of the proposed warehouse structure, the LID feature measures approximately 214 feet in length by 30 feet in width and would be connected to the existing drainage pipe traversing the site via an overflow disconnect system. The feature would be comprised of a 3.5-foot base of Class II permeable material [per Caltrans specifications], overlain with 2 feet of planting media comprised of a loam/sand/compost mix. In accordance with Regional Board and City performance criteria requirements, the feature would be designed to treat the 85th percentile rain event, retain the 95th percentile 24-hour rain event, limit discharge rates and quantities to predevelopment conditions for the 2- through 10-year 24-hour rain events, into the existing drainage pipe. The northwest corner of the Project site would drain to the north to a catch basin, which would also be connected to the existing pipe. This area would be considered a self-retaining area in accordance with the Central Coast Regional Water Quality Control Board's Post-Construction Requirements Guidance Series #1: *The Use of Self-Retaining Areas to Support Post Construction Storm Water Control Compliance*.

Electrical service would be provided to the Project site by Pacific Gas and Electric (PG&E) from an existing distribution board on the Reclamation parcel. This new service extension would be trenched. Data and telecommunications providers to the area include Verizon, AT&T, and Charter Communications (City of Morgan Hill, 2016).

2.5 Project Construction

Construction activities are estimated to begin in the spring or summer of 2017, following completion of the CEQA review process, approval of all necessary local entitlements (i.e., conditional use, building, encroachment permits), obtaining coverage under the Construction Stormwater General Permit, approval of post-construction stormwater drainage design, and compliance with any applicable pre-construction conditions. Construction of the Project is expected to be completed within approximately 14 months from the mobilization of construction equipment onsite.

Prior to the start of site grading and construction, stockpiles of soil and rock currently kept on the Project site must be removed by an excavation, grading, trucking contractor. There are approximately 4,500 cubic yards of soil and 100 tons of rock to be removed from the site. The soil material has been tested by a certified laboratory and found to contain amounts of arsenic and nickel that exceed the Regional Water Quality Control Board's Tier 1 environmental screening levels (Test America 2016). As such, although classified as non-hazardous, this material cannot be beneficially reused onsite and must be disposed of at a licensed Class III landfill. The material would be taken to either the Kirby Canyon Landfill in Morgan Hill or the Newby Island Landfill in Milpitas. It is estimated that it would take 10 to 15 haul truck [round] trips over a period of seven to 10 [working] days to remove this material from the site.

Once the site is cleared of this stockpiled material and the site is relatively level, the site/building construction crews would typically work 8- to 10-hour days, 5 to 6 days a week (daylight only hours and limited Saturday work; typical hours would be 7 a.m. to 5p.m.). Activities would include grading and building construction. While no fill material would be imported, approximately 3,000 yards of soil would be graded and shifted around onsite to develop the subgrade for the building and driveway surfaces. During construction, a variety of equipment and vehicles would be operating on the site. The types of equipment, which would be used during construction, may include but are not limited to the following:

- Asphalt Pavers
- Compactors/Rollers
- Concrete/Industrial Saws
- Scissor Lift
- Forklift
- Backhoes
- Loaders
- Generator Set
- Scraper
- Earth Graders, Bull Dozers
- Excavators
- Crane
- Trucks/Trailers
- Rubber Tired Dozers
- Welder
- Air Compressor

All materials for Project construction would be delivered by truck. The majority of truck traffic would travel on designated truck routes and major streets. Delivery and haul trucks would enter the Project site via Peet Road. Flatbed trailers and trucks would be used to transport construction equipment and construction materials to the site. Warehouse components would be assembled onsite. All staging of construction materials would occur onsite. Traffic resulting from

construction activities would be temporary. The anticipated number of vehicle round trips per construction phase is as follows:

- Up to 56 total hauling trips per day for soil export;
- 15 worker trips per day for demolition;
- 18 worker trips per day for site preparation;
- 15 worker trips per day per day for grading;
- 32 worker trips per day for building construction;
- 12 vendor trips per day for delivery of construction materials;
- 15 worker trips per day for paving; and
- 6 worker trips per day for architectural coating.

This would result in a maximum of 44 trips to and from the site per day during the up to 14-month construction period. During construction, a maximum of 16 construction workers would travel to and from the site on a daily basis, at an average one-way distance of 12 miles. Local labor would be utilized to the maximum extent practicable.⁴

2.6 Project Warehouse Operations

Operations at the Project site would be similar to the existing operations, with the transportation and storage of materials at the site. The site would continue to operate from approximately 6:30 a.m. to 4:00 p.m. five days a week. The existing District employees would remain at the Project site. Operation of the Project would not introduce any new daily employee traffic trip or delivery truck trips. The warehouse could continue to house hazardous materials such as oils, fuels, paints, solvents, acids and bases, disinfectants, and metals, which are currently stored at existing facilities onsite.

2.7 District Best Management Practices and Santa Clara Valley Habitat Plan

Best Management Practices (BMPs) are standard operating procedures that prevent, avoid, or minimize potentially adverse effects associated with construction and other activities. The District routinely incorporates a wide range of BMPs into project design as described in detail in its Best Management Practices Handbook (Santa Clara Valley Water District 2014). As summarized in **Table 2-1**, the Project would include many of the District's standard BMPs. All BMPs for project construction activities will be incorporated into the construction documents (plans and specifications) so contractors employed on the Project will be contractually required to adhere to them.

⁴ The construction assumptions related to phase length, trips, number of workers and equipment usage are based on construction surveys and research performed primarily by the South Coast Air Quality Management District and endorsed by the other California air districts, and incorporated into California Emissions Estimator Model version 2013.2.2.

**TABLE 2-1
BEST MANGEMENT PRACTICES**

Air Quality	
BMP AQ-1: Use Dust Control Measures	The following Bay Area Air Quality Management District (BAAQMD) Dust Control Measures will be implemented: 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day; 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered; 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited; 4. Water used to wash the various exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, etc.) will not be allowed to enter waterways; 5. All vehicle speeds on unpaved roads shall be limited to 15 mph; 6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used; 7. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations), and this requirement shall be clearly communicated to construction workers (such as verbiage in contracts and clear signage at all access points); 8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications, and all equipment shall be checked by a certified visible emissions evaluator; 9. Correct tire inflation shall be maintained in accordance with manufacturer's specifications on wheeled equipment and vehicles to prevent excessive rolling resistance; and, 10. Post a publicly visible sign with a telephone number and contact person at the lead agency to address dust complaints; any complaints shall be responded to and take corrective action within 48 hours. In addition, a BAAQMD telephone number with any applicable regulations will be included.
Biological Resources	
BMP BI-5: Avoid Impacts to Nesting Migratory Birds	Nesting birds are protected by state and federal laws. The District will protect nesting birds and their nests from abandonment, loss, damage, or destruction. Nesting bird surveys will be performed by a qualified biologist prior to any activity that could result in the abandonment, loss, damage, or destruction of birds, bird nests, or nesting migratory birds. Inactive bird nests may be removed with the exception of raptor nests. Birds, nests with eggs, or nests with hatchlings will be left undisturbed.
BMP BI-10: Avoid Animal Entry and Entrapment	All pipes, hoses, or similar structures less than 12 inches diameter will be closed or covered to prevent animal entry. All construction pipes, culverts, or similar structures, greater than 2-inches diameter, stored at a construction site overnight, will be inspected thoroughly for wildlife by a qualified biologist or properly trained construction personnel before the pipe is buried, capped, used, or moved. If inspection indicates presence of sensitive or state- or federally-listed species inside stored materials or equipment, work on those materials will cease until a qualified biologist determines the appropriate course of action. To prevent entrapment of animals, all excavations, steep-walled holes or trenches more than 6-inches deep will be secured against animal entry at the close of each day. Any of the following measures may be employed, depending on the size of the hole and method feasibility: 1. Hole to be securely covered (no gaps) with plywood, or similar materials, at the close of each working day, or any time the opening will be left unattended for more than one hour; or 2. In the absence of covers, the excavation will be provided with escape ramps constructed of earth or untreated wood, sloped no steeper than 2:1, and located no farther than 15 feet apart; or 3. In situations where escape ramps are infeasible, the hole or trench will be surrounded by filter fabric fencing or a similar barrier with the bottom edge buried to prevent entry.

TABLE 2-1 (CONTINUED)
BEST MANGEMENT PRACTICES

Biological Resources (cont.)	
BMP BI-11: Minimize Predator-Attraction	Remove trash daily from the worksite to avoid attracting potential predators to the site.
Cultural Resources	
BMP CU-1: Accidental Discovery of Archaeological Artifacts or Burial Remains	If historical or unique archaeological artifacts are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. Work at the location of the find will halt immediately within 30 feet of the find. A "no work" zone shall be established utilizing appropriate flagging to delineate the boundary of this zone. A Consulting Archaeologist will visit the discovery site as soon as practicable for identification and evaluation pursuant to Section 21083.2 of the Public Resources Code and Section 15126.4 of the California Code of Regulations. If the archaeologist determines that the artifact is not significant, construction may resume. If the archaeologist determines that the artifact is significant, the archaeologist will determine if the artifact can be avoided and, if so, will detail avoidance procedures. If the artifact cannot be avoided, the archaeologist will develop within 48 hours an Action Plan which will include provisions to minimize impacts and, if required, a Data Recovery Plan for recovery of artifacts in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines. If burial finds are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. Upon discovering any burial site as evidenced by human skeletal remains, the County Coroner will be immediately notified and the field crew supervisor shall take immediate steps to secure and protect such remains from vandalism during periods when work crews are absent. No further excavation or disturbance within 30 feet of the site or any nearby area reasonably suspected to overlie adjacent remains may be made except as authorized by the County Coroner, California Native American Heritage Commission, and/or the County Coordinator of Indian Affairs.
Hazards and Hazardous Materials	
BMP HM-7: Restrict Vehicle and Equipment Cleaning to Appropriate Locations	Vehicles and equipment may be washed only at approved areas. No washing of vehicles or equipment will occur at job sites.
BMP HM-9: Ensure Proper Hazardous Materials Management	Measures will be implemented to ensure that hazardous materials are properly handled and the quality of water resources is protected by all reasonable means. 1. Prior to entering the work site, all field personnel will know how to respond when toxic materials are discovered. 2. Contact of chemicals with precipitation will be minimized by storing chemicals in watertight containers with appropriate secondary containment to prevent any spillage or leakage. 3. Petroleum products, chemicals, cement, fuels, lubricants, and non-storm drainage water or water contaminated with the aforementioned materials will not contact soil and not be allowed to enter surface waters or the storm drainage system. 4. All toxic materials, including waste disposal containers, will be covered when they are not in use, and located as far away as possible from a direct connection to the storm drainage system or surface water. 5. Quantities of toxic materials, such as equipment fuels and lubricants, will be stored with secondary containment that is capable of containing 110% of the primary container(s). 6. The discharge of any hazardous or nonhazardous waste as defined in Division 2, Subdivision 1, Chapter 2 of the California Code of Regulations will be conducted in accordance with applicable State and federal regulations. 7. In the event of any hazardous material emergencies or spills, personnel will call the Chemical Emergencies/Spills Hotline at 1 800 510 5151.

TABLE 2-1 (CONTINUED)
BEST MANAGEMENT PRACTICES

Hazards and Hazardous Materials (cont.)	
BMP HM-10: Utilize Spill Prevention Measures	Prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water following these measures: 1. Field personnel will be appropriately trained in spill prevention, hazardous material control, and clean up of accidental spills; 2. Equipment and materials for cleanup of spills will be available on site, and spills and leaks will be cleaned up immediately and disposed of according to applicable regulatory requirements; 3. Field personnel will ensure that hazardous materials are properly handled and natural resources are protected by all reasonable means; 4. Spill prevention kits will always be in close proximity when using hazardous materials (e.g., at crew trucks and other logical locations), and all field personnel will be advised of these locations; and, 5. The work site will be routinely inspected to verify that spill prevention and response measures are properly implemented and maintained.
BMP HM-12: Incorporate Fire Prevention Measures	1. All earthmoving and portable equipment with internal combustion engines will be equipped with spark arrestors. 2. During the high fire danger period (April 1–December 1), work crews will have appropriate fire suppression equipment available at the work site. 3. An extinguisher shall be available at the project site at all times when welding or other repair activities that can generate sparks (such as metal grinding) is occurring. 4. Smoking shall be prohibited except in designated staging areas and at least 20 feet from any combustible chemicals or vegetation.
Hydrology/Water Quality	
BMP WQ-4: Limit Impacts From Staging and Stockpiling Materials	1. To protect on-site vegetation and water quality, staging areas should occur on access roads, surface streets, or other disturbed areas that are already compacted and only support ruderal vegetation. Similarly, all equipment and materials (e.g., road rock and project spoil) will be contained within the existing service roads, paved roads, or other pre-determined staging areas. 2. Building materials and other project-related materials, including chemicals and sediment, will not be stockpiled or stored where they could spill into water bodies or storm drains. 3. No runoff from the staging areas may be allowed to enter water ways, including the creek channel or storm drains, without being subjected to adequate filtration (e.g., vegetated buffer, swale, hay wattles or bales, silt screens). 4. The discharge of decant water to water ways from any on-site temporary sediment stockpile or storage areas is prohibited. 5. During the wet season, no stockpiled soils will remain exposed, unless surrounded by properly installed and maintained silt fencing or other means of erosion control. During the dry season; exposed, dry stockpiles will be watered, enclosed, covered, or sprayed with non-toxic soil stabilizers.
BMP WQ-5: Stabilize Construction Entrances and Exits	Measures will be implemented to minimize soil from being tracked onto streets near work sites: 1. Methods used to prevent mud from being tracked out of work sites onto roadways include installing a layer of geotextile mat, followed by a 4-inch thick layer of 1 to 3 inch diameter gravel on unsurfaced access roads. 2. Access will be provided as close to the work area as possible, using existing ramps where available and planning work site access so as to minimize disturbance to the water body bed and banks, and the surrounding land uses.

TABLE 2-1 (CONTINUED)
BEST MANAGEMENT PRACTICES

Hydrology/Water Quality (cont.)	
BMP WQ-11: Maintain Clean Conditions at Work Sites	The work site, areas adjacent to the work site, and access roads will be maintained in an orderly condition, free and clear from debris and discarded materials on a daily basis. Personnel will not sweep, grade, or flush surplus materials, rubbish, debris, or dust into storm drains or waterways. For activities that last more than one day, materials or equipment left on the site overnight will be stored as inconspicuously as possible, and will be neatly arranged. Any materials and equipment left on the site overnight will be stored to avoid erosion, leaks, or other potential impacts to water quality. Upon completion of work, all building materials, debris, unused materials, concrete forms, and other construction-related materials will be removed from the work site.
BMP WQ-15: Prevent Water Pollution	Oily, greasy, or sediment laden substances or other material that originate from the project operations and may degrade the quality of surface water or adversely affect aquatic life, fish, or wildlife will not be allowed to enter, or be placed where they may later enter, any waterway. The project will not increase the turbidity of any watercourse flowing past the construction site by taking all necessary precautions to limit the increase in turbidity as follows: - where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases will not exceed 5 percent; - where natural turbidity is greater than 50 NTU, increases will not exceed 10 percent; - where the receiving water body is a dry creek bed or storm drain, waters in excess of 50 NTU will not be discharged from the project. Water turbidity changes will be monitored. The discharge water measurements will be made at the point where the discharge water exits the water control system for tidal sites and 100 feet downstream of the discharge point for non-tidal sites. Natural watercourse turbidity measurements will be made in the receiving water 100 feet upstream of the discharge site. Natural watercourse turbidity measurements will be made prior to initiation of project discharges, preferably at least 2 days prior to commencement of operations.
BMP WQ-16: Prevent Stormwater Pollution	To prevent stormwater pollution, the applicable measures from the following list will be implemented: - Soils exposed due to project activities will be seeded and stabilized using hydroseeding, straw placement, mulching, and/or erosion control fabric. These measures will be implemented such that the site is stabilized and water quality protected prior to significant rainfall. In creeks, the channel bed and areas below the Ordinary High Water Mark are exempt from this BMP. - The preference for erosion control fabrics will be to consist of natural fibers; however, steeper slopes and areas that are highly erodible may require more structured erosion control methods. No non-porous fabric will be used as part of a permanent erosion control approach. Plastic sheeting may be used to temporarily protect a slope from runoff, but only if there are no indications that special-status species would be impacted by the application. - Erosion control measures will be installed according to manufacturer's specifications. - To prevent stormwater pollution, the appropriate measures from, but not limited to, the following list will be implemented: - Silt Fences - Straw Bale Barriers - Brush or Rock Filters - Storm Drain Inlet Protection - Sediment Traps or Sediment Basins - Erosion Control Blankets and/or Mats

The Project is an activity identified and covered in the Santa Clara Valley Habitat Plan (SCVHP). This is a joint habitat conservation plan and natural communities conservation plan developed to serve as the basis for issuance of incidental take permits and authorizations pursuant to Section 10 of the federal Endangered Species Act and California Natural Community Conservation Planning Act. All activities identified in the SCVHP, including the proposed site development activities, must be implemented consistent with requirements outlined in the SCVHP. The impacts associated with those activities have been evaluated at a programmatic level in the SCVHP Final Environmental Impact Report/Environmental Impact Statement, August 2012 (County of Santa Clara et al., 2012). As a covered activity in the SCVHP, the proposed Project is subject to the Conditions of the SCVHP and incorporates all of the applicable Avoidance and Mitigation Measures (AMM) provided in Table 6-2 of the SCVHP. Those conditions and AMMs applicable to the Project are listed in **Table 2-2** and **Table 2-3** shown below and discussed in the attached Initial Study (beginning in Section 3).

**TABLE 2-2
SANTA CLARA VALLEY HABITAT CONSERVATION PLAN/NCCP
APPLICABLE AVOIDANCE AND MINIMIZATION MEASURES (AMMS)**

ID	Avoidance and Minimization Measures. During project design and construction the District shall implement the following measures:
	General
1	Minimize the potential impacts on covered species most likely to be affected by changes in hydrology and water quality.
2	Reduce stream pollution by removing pollutants from surface runoff before the polluted surface runoff reaches local streams.
7	Personnel shall prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water into channels.
8	Spill prevention kits shall always be in close proximity when using hazardous materials (e.g., crew trucks and other logical locations).
11	Vehicles shall be washed only at approved areas. No washing of vehicles shall occur at job sites.
26	Any sediment removed from a Project site shall be stored and transported in a manner that minimizes water quality impacts.
	Project Design
34	Use the minimum amount of impermeable surface (building footprint, paved driveway, etc.) as practicable
35	Use pervious materials, such as gravel or turf pavers, in place of asphalt or concrete to the extent practicable.
37	Direct downspouts to swales or gardens instead of storm drain inlets
42	Use flow control structures, permeable pavement, cisterns, and other runoff management methods to ensure no change in post-construction peak runoff volume from pre-project conditions for all covered activities with more than 5,000 square feet of impervious surface.
51	All projects will be conducted in conformance with applicable County and/or city drainage policies
	Construction
63	Prepare and implement sediment erosion control plans
64	No winter grading unless approved by City Engineer and specific erosion control measures are incorporated.
68	Stabilize stockpiled soil with geotextile or plastic covers.
75	Dispose of all construction waste in designated areas and prevent stormwater from flowing onto or off of these areas.

TABLE 2-2 (CONTINUED)
SANTA CLARA VALLEY HABITAT CONSERVATION PLAN/NCCP
APPLICABLE AVOIDANCE AND MINIMIZATION MEASURES (AMMS)

ID	Avoidance and Minimization Measures. During project design and construction the District shall implement the following measures:
	Construction (cont.)
76	Prevent spills and clean up spilled materials.
77	Sweep nearby streets at least once a day.
90	All trash will be removed from the site daily to avoid attracting potential predators to the site. Personnel will clean the work site before leaving each day by removing all litter and construction-related materials.
95	To prevent inadvertent entrapment of animals during excavation, all excavated, steep-walled holes or trenches more than 2-feet deep will be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks.
	Post Construction
115	All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods will be thoroughly inspected for wildlife by properly trained construction personnel before the pipe is subsequently buried, capped, or otherwise used or moved in anyway.

TABLE 2-3
SANTA CLARA VALLEY HABITAT CONSERVATION PLAN/NCCP APPLICABLE CONDITIONS

- | | |
|-------------------------------------|---|
| ☒ | Condition 1. Avoid Direct Impacts on Legally Protected Plant and Wildlife Species |
| ☒ | Condition 3. Maintain Hydrologic Conditions and Protect Water Quality |
| ☒ | Condition 15. Western Burrowing Owl |

References

- Morgan Hill, City of, 2016. Utility Services. Available online at: <http://www.morgan-hill.ca.gov/845/Utility-Services>. Accessed March 23, 2016.
- Morgan Hill, City of, 2012a. City of Morgan Hill General Plan Land Use Diagram. February 29, 2012. Available online at: <http://www.morgan-hill.ca.gov/DocumentView.asp?DID=325>. Accessed December 21, 2015.
- Morgan Hill, City of, 2012b. City of Morgan Hill Zoning Map. February 29, 2012. Available online at: <http://www.morgan-hill.ca.gov/76/Zoning>. Accessed December 21, 2015.
- Santa Clara, County of. 2012. Santa Clara Valley Habitat Plan Final Environmental Impact Report/Environmental Impact Statement. August.
- Santa Clara Valley Water District. 2014. Best Management Practices (BMP) Handbook, Document No. W-751-037, Revision G. September 25.
- Test America, 2016. Analytical Report, Job ID 720-71980-1, Coyote Plant Site. May 20.

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CHAPTER 3

Environmental Checklist – Initial Study

1. **Project Title:** Coyote Warehouse
2. **Lead Agency Name and Address:** Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
3. **Contact Person and Phone Number:** Mr. Michael F. Coleman, AICP
Environmental Planner
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3686
408.630.3096
4. **Project Location:** 18300 Peet Road
Morgan Hill, CA 95037
5. **Project Sponsor's Name and Address:** Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
6. **General Plan Designation(s):** Public Facilities
7. **Zoning Designation(s):** Public Facilities
8. **Description of Project:** The Project would construct a storage facility for the District's pipeline parts and other materials used for the maintenance of District facilities. See Chapter 2 (Project Description) and Figure 2-3.
9. **Surrounding Land Uses and Setting.** (Briefly describe the project's surroundings.)

The Project site is located at 18300 Peet Road in the City of Morgan Hill, adjacent to the Coyote Pumping Plant. A large residential development is located northwest of the Project site with five single family houses directly bordering the fence line of the Project site. To the north, east and west, the land is undeveloped with open spaces and agricultural uses. More single family residential uses are located south across Peet Road.
10. **Other public agencies whose approval is required** (e.g., permits, financing approval, or participation agreement. Indicate whether another agency is a responsible or trustee agency.)

The anticipated approvals or permits that the District may be required to apply for or obtain for the Project include:

- City of Morgan Hill Conditional Use, Building, and Encroachment Permits
- Central Coast Regional Water Quality Control Board (Region 3) National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, as amended by Order Nos. 2010-0014-DWQ and 2012-0006-DWQ) (Construction General Permit)
- Central Coast Regional Water Quality Control Board (Region 3) Post-Construction Stormwater Management Requirements for Development Projects (Resolution No R3-2013-0032)
- Certification of Compliance with the Final Santa Clara Valley Habitat Plan

3.1 Environmental Factors Potentially Affected

The proposed project could potentially affect the environmental factor(s) checked below. The following pages present a more detailed checklist and discussion of each environmental factor.

- | | | |
|--|---|--|
| ☐ Aesthetics | ☐ Agriculture and Forestry Resources | ☐ Air Quality |
| ☒ Biological Resources | ☒ Cultural Resources | ☐ Geology, Soils and Seismicity |
| ☐ Greenhouse Gas Emissions | ☐ Hazards and Hazardous Materials | ☐ Hydrology and Water Quality |
| ☐ Land Use and Land Use Planning | ☐ Mineral Resources | ☐ Noise |
| ☐ Population and Housing | ☐ Public Services | ☐ Recreation |
| ☐ Transportation and Traffic | ☐ Tribal Cultural Resources | ☐ Utilities and Service Systems |
| ☒ Mandatory Findings of Significance | | |

DETERMINATION: (To be completed by Lead Agency)

On the basis of this initial study:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, no further environmental documentation is required.

Signature

Michael F. Coleman, AICP
Printed Name

Date

Santa Clara Valley Water District
For

3.2 Environmental Checklist

3.2.1 Aesthetics

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
1. AESTHETICS — Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect daytime or nighttime views in the area?	☐	☐	☒	☐

Discussion

- a) **No Impact.** There are no scenic vistas affected in the Project vicinity, as defined by the City of Morgan Hill General Plan Open Space, Hillsides, and Scenic Features sub-element; therefore, the Project would have no impact on a scenic vista.
- b) **No Impact.** The Project is not located within the vicinity of a state scenic highway, as defined by the Caltrans Scenic Route Program; the closest segment of a state scenic highway is approximately 19 miles away. There are no notable trees, rock outcroppings, or historical buildings on the Project site that would be affected, and the Project would not alter long-distance existing scenic views of mountains, river, or other natural features. For these reasons, there would be no impact on scenic resources viewed from a state scenic highway or county-designated scenic roadway.
- c) **Less than Significant.** The Project site is surrounded by the Reclamation owned Coyote Pumping Plant, residential development, undeveloped land with open spaces and agricultural uses. Residential buildings in the vicinity of the Project site are of contemporary architectural design, ranging from one to two stories in height and are setback from the street. Each residential building includes a drive, landscaping and is surrounded by a fence. The residential streets are lined with sidewalks and street parking. The undeveloped areas in the surrounding area are mostly utilized for agricultural uses. The land east of the Project site is an active tree orchard. While areas to the north and west are fallow fields.

The approximate 10 acre Coyote Pumping Plant site south of the Project site is fenced and includes a substation, switching yard, maintenance building, two office trailers, several equipment storage bins, open storage areas, and parking. The switch yard building and the maintenance building are brick structures approximately 30 feet tall and visible from Peet Road. Beyond the switch yard building is the substation, which is also

visible from Peet Road. The switch yard building, maintenance building and substation can be seen in **Figures 3-1** and **3-2**. From a distance office trailers and equipment storage bins are visible.

The Project site is not visible from public areas and does not contain permanent structures. It has been used for stockpile soils, rocks, miscellaneous debris and storage of buried pipelines. The Project site is unpaved with loose gravel areas for driveways and parking. The Project site is vegetated with low lying grass and sparsely inhabited by few bushes and trees. The stockpiles on the Project site can be between 5 and 30 feet in height, depending on the quantity of materials stockpiled at the time, see **Figures 3-2** and **3-3**. The quantity of materials stockpiled on the Project site often changes as soil and rock are removed and added to the site. The pipelines stored above ground range in size and color and are located throughout the Project site, see **Figure 3-4**. Movable equipment storage bins are also located throughout the Project site, see **Figures 3-3** and **3-4**. The Project site is visible from viewpoints located on Altimira Circle and from the Coyote Pumping Plant. The overall visual character of the site is industrial and disturbed undeveloped areas.

The Project would entail the construction of an approximately 32-foot-high, 21,600 square foot, metal framed warehouse building. The size and façade of the warehouse would be similar to the structures at the Coyote Pumping Plant site. The Project site would be screened with trees both planted and in raised movable planters. Along the northern and eastern perimeter a new 8 foot sound wall would be installed. The site would continue to be used for stockpile soils, rocks, miscellaneous debris and storage of water pipe and pipeline appurtenances. In addition, the District will place many items indoors within the warehouse to maintain the site in a clean and orderly fashion.

Given that the Project would be comparable to adjacent structures/facilities at the Coyote Pumping Plant and is not visible from public areas, it can be concluded that the Project would not result in a substantial negative aesthetic effect, and that it would not substantially degrade the visual character of the site, which would continue to be industrial in nature. Therefore, the Project's impact on visual quality and character would be less than significant.

- d) ***Less than Significant.*** The Project site is located in an area that includes existing sources of light and glare associated with nearby land uses. Nearby sources of light include exterior lighting at Coyote Pumping Plant and within the resident areas, street lighting, and passing vehicle headlights. Currently there are no permanent structures or existing sources of light at the Project site.

The Project would not include any nighttime construction; therefore, no night lighting would be required during construction. Therefore, construction of the Project would not create a new source of substantial glare that would affect nighttime views in the area.



Source: ESA

Coyote Warehouse Project

Figure 3-1

View looking south towards the Coyote Pumping Plant (top) and view of miscellaneous materials located on the northeastern portion of the Coyote Pumping Plant (bottom)



Source: ESA

Coyote Warehouse Project

Figure 3-2

View of the Project site looking northwest (top) and view from the Project site looking south towards the Coyote Pumping Plant (bottom)

Attachment: Final Initial Study (1352 : Conditional Use Permit for Coyote Warehouse Project)



Source: ESA

Coyote Warehouse Project

Figure 3-3

View of the Project site looking north (top) and
view looking across the Project site west to east (bottom)



Source: ESA

Coyote Warehouse Project

Figure 3-4
View from the northeast corner of the Project site looking west (top)
and view of pipelines stored on the Project site (bottom)

As discussed in the Chapter 2, Project Description, exterior lighting would consist of wall mounted fixtures on the exterior of the warehouse. The Project would be visible from the surrounding area; however, the outdoor warehouse lighting would be comparable to that from existing buildings in the vicinity. With respect to glare, the proposed warehouse would not be covered in reflective surfaces and would not include oversized windows or large expanses of reflective glass. The proposed warehouse façades would be finished with dull rib panel metal siding extending from the concrete masonry unit. The Project would also comply with the City of Morgan Hill Zoning Code standards and regulations relating to lighting, and the Project would require City Planning Commission Design Review approval.

Following construction, the light generated by the Project would be of a scale and intensity typical of other structures in the Project area, and night lighting effects would be minimized and partially screened by trees and other landscaping.

Based on the above, the Project would not create a new source of substantial light or glare adversely affecting daytime or nighttime views in the area. The Project would have a less than significant impact.

References

- California Department of Transportation (Caltrans), 2016. California Scenic Highway Mapping System, Santa Clara County. Available online at: http://dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm. Accessed February 17, 2016.
- City of Morgan Hill, 2016. City of Morgan Hill General Plan 2035. Available online at: http://morganhill2035.org/wp-content/uploads/2016/08/MorganHill2035_GeneralPlan_Adopted1.pdf. Accessed January 19, 2017.

3.2.2 Agricultural and Forest Resources

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
2. AGRICULTURAL AND FOREST RESOURCES — In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.				
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Discussion

- a) **No Impact.** The California Department of Conservation Farmland Mapping and Monitoring Program designates the Project site as “Other Land” (CDC, 2011). “Other Land” is land not included in any other mapping category. Examples include low density rural developments, brush, timber, wetland, and riparian areas not suitable for livestock grazing, confined livestock, poultry, or aquaculture facilities, strip mines, borrow pits, and water bodies smaller than 40 acres. Vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres is mapped as other land. Although land adjacent to the site is designated as Prime Farmland with nearby areas of Urban and Built-Up Land, the Project would not convert any of this land to non-agricultural use and thus no impact would occur.
- b) **No Impact.** The Project site is designated as Public Facilities (PF) in both the City of Morgan Hill General Plan Land Use Diagram (City of Morgan Hill, 2012a) and the City of Morgan Zoning Map (City of Morgan Hill, 2012b). Therefore, the Project would not conflict with existing zoning for agricultural use. The California Department of Conservation Santa Clara County Williamson Act map designates the site as

Non-Enrolled Land, which is land not enrolled in a Williamson Act contract and not mapped by the Farmland Mapping and Monitoring Program as Urban and Built-Up Land or Water (CDC, 2013). Therefore, the Project would not conflict with existing zoning for agricultural uses or a Williamson Act contract, and no impact would occur.

- c, d, e) **No Impact.** The Project would not occur on land zoned as forest land or timberland, or result in loss of forest land. The impacts to farmland were discussed in Questions 2.a and 2.b above. Furthermore, the Project site is not currently used for farming. Therefore, the Project would have no impact on forest resources or agricultural uses.

References

- California Department of Conservation (CDC) 2011. Division of Land Resources Protection, Farmland Mapping and Monitoring Program, *Santa Clara Important Farmland 2010*, June 2011. Available online at: <ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2010/scl10.pdf>. Accessed December 21, 2015.
- CDC, 2013. Division of Land Resource Protection, Santa Clara County Williamson Act Lands 2013/2014. Available: ftp://ftp.consrv.ca.gov/pub/dlrp/wa/SantaClara_13_14_WA.pdf. Accessed December 21, 2015.
- City of Morgan Hill, 2012a. *City of Morgan Hill General Plan Land Use Diagram*. February 29, 2012. Available online at: <http://www.morgan-hill.ca.gov/DocumentView.asp?DID=325>. Accessed December 21, 2015.
- City of Morgan Hill, 2012b. *City of Morgan Hill Zoning Map*. February 29, 2012. Available online at: <http://www.morgan-hill.ca.gov/76/Zoning>. Accessed December 21, 2015.

3.2.3 Air Quality

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
3. AIR QUALITY — Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☒	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☒	☐

Discussion

- a) ***Less than Significant.*** The most recently adopted air quality plan for the San Francisco Bay Area is the Bay Area 2010 Clean Air Plan (2010 CAP).¹ The 2010 CAP also serves as a multi-pollutant air quality plan to protect public health and the climate. The 2010 CAP control strategy includes revised, updated, and new measures in the three traditional control measure categories, including stationary source measures, mobile source measures, and transportation control measures. In addition, the 2010 CAP identifies two new categories of control measures, including land use and local impact measures, and energy and climate measures (BAAQMD, 2010a).

A lead agency could consider the following questions in its determination of whether the project is consistent with the applicable air quality plan: 1) does the project support the primary goals of the 2010 CAP?; 2) does the project include applicable control measures from the 2010 CAP?; and 3) does the project disrupt or hinder implementation of any 2010 CAP control measures? If the first two questions are concluded in the affirmative, and the third question concluded in the negative, the Bay Area Air Quality Management District (BAAQMD) considers the project consistent with air quality plans prepared for the San Francisco Air Basin (BAAQMD, 2012). First, any project that would not support the 2010 CAP goals would not be considered consistent with the 2010 CAP. The BAAQMD recommendation for determining if a project would support the CAP goals is

¹ The Bay Area Air Quality Management District (BAAQMD) in conjunction with the Association of Bay Area Governments, the Bay Conservation and Development Commission, and the Metropolitan Transportation Commission on will release a public draft of the 2016 CAP in July 2016. The final draft is scheduled for BAAQMD Board Approval in November 2016.

to compare the project's estimated emissions to the BAAQMD significance thresholds, and if approval of the project would not result in significant and unavoidable air quality impacts after the application of mitigation, then the project would be considered consistent with the 2010 CAP.

As presented in the subsequent impact discussions, the proposed project would result in negligible new long-term operational-related emissions and with implementation of BMP AQ-1 (see discussion under Question 3.b below), proposed project-related construction emissions would result in a less-than-significant impact. Therefore, the proposed project would support the primary goals of the 2010 CAP.

In addition, projects that incorporate all feasible air quality plan control measures are considered consistent with the 2010 CAP. There appear to be no 2010 CAP control measures that would be directly applicable to the proposed project; however, implementation of BMP AQ-1 (see Question 3.b below) would ensure that BAAQMD basic construction control measures would be implemented and that the Project would not disrupt or hinder implementation of any 2010 CAP control measures.

Based on the above, the impact associated with the project conflicting or obstructing implementation of the applicable air quality plan would be mitigated to less than significant.

- b) ***Less than Significant.*** The Federal Clean Air Act and the California Clean Air Act both require the establishment of standards for ambient concentrations of air pollutants, called Ambient Air Quality Standards (AAQs). The federal AAQs, established by U.S. Environmental Protection Agency (USEPA), are typically higher (less stringent) or the same as the state AAQs, which are established by the California Air Resources Board (CARB) and enforced by the BAAQMD based on the project's location. The standard time periods over which the various pollutants are measured range from a 1-hour average to an annual average. The standards are expressed as a concentration, in either parts per million (ppm) or as a weighted mass of material per a volume of air, in micrograms of the pollutant in a cubic meter of air ($\mu\text{g}/\text{m}^3$).

In general, an area is designated as having an "attainment" status for a given standard if the concentration of a particular air contaminant does not exceed the standard. Likewise, an area is generally designated as having a "non-attainment" status if a standard is violated. In circumstances where there is not enough data available to support designation as either attainment or non-attainment, the area can be designated as unclassified. An unclassified area is normally treated by CARB and USEPA the same as an attainment area for regulatory purposes. An area could be designated attainment for one air contaminant while non-attainment for another, or attainment for the federal standard and non-attainment for the state standard for the same air contaminant. **Table 3-1** provides ambient air quality standards and attainment status for each monitored pollutant in the San Francisco Bay Area Air Basin, the air basin in which the project is located.

**TABLE 3-1
AMBIENT AIR QUALITY STANDARDS AND SFBAAB ATTAINMENT STATUS**

Pollutant	Averaging Time	State Standard	SF Air Basin Attainment Status for California Standard	Federal Primary Standard	SF Air Basin Attainment Status for Federal Standard
Ozone	8 Hour	0.070 ppm	Non-Attainment	0.070 ppm	Non-Attainment
	1 Hour	0.09 ppm	Non-Attainment	---	---
Carbon Monoxide	8 Hour	9.0 ppm	Attainment	9 ppm	Attainment
	1 Hour	20 ppm	Attainment	35 ppm	Attainment
Nitrogen Dioxide	Annual Average	0.030 ppm	---	0.053 ppm	Attainment
	1 Hour	0.18 ppm	Attainment	0.100 ppm	Unclassified
Sulfur Dioxide	Annual Average	---	---	0.030 ppm	Attainment
	24 Hour	0.04 ppm	Attainment	0.14 ppm	Attainment
	1 Hour	0.25 ppm	Attainment	0.075 ppm	Attainment
Respirable Particulate Matter (PM ₁₀)	Annual Arithmetic Mean	20 µg/m ³	Non-Attainment	---	---
	24 Hour	50 µg/m ³	Non-Attainment	150 µg/m ³	Unclassified
Fine Particulate Matter (PM _{2.5})	Annual Arithmetic Mean	12 µg/m ³	Non-Attainment	12 µg/m ³	Unclassified/Attainment
	24 Hour	---	---	35 µg/m ³	Non-Attainment
Sulfates	24 Hour	25 µg/m ³	Attainment	---	---
Lead	Calendar Quarter	---	---	1.5 µg/m ³	Attainment
	30-Day Average	1.5 µg/m ³	Attainment	---	---
	3-Month Rolling Average	---	---	0.15 µg/m ³	Unclassified
Hydrogen Sulfide	1 Hour	0.03 ppm	Unclassified	No Federal Standard	---
Vinyl Chloride	24 Hour	0.010 ppm	No information available	---	---
Visibility Reducing Particles	8 Hour	Extinction of 0.23/km; visibility of 10 miles or more	Unclassified	No Federal Standard	---

ppm = parts per million
µg/m³ = micrograms per cubic meter

SOURCE: BAAQMD, 2015

The project area currently is designated as a non-attainment area for violation of the state 1-hour and 8-hour ozone standards, the federal ozone 8-hour standard, the state respirable particulate matter (PM₁₀) 24-hour and annual average standards, the state fine particulate matter (PM_{2.5}) annual average standard, and the federal PM_{2.5} 24-hour standard. The project area is designated as attainment for all other state and federal AAQs (BAAQMD, 2016).

In June 2010, the BAAQMD adopted significance thresholds for agencies to use to assist with environmental review of projects (BAAQMD, 2010b). These thresholds were designed to establish the levels at which BAAQMD believed air pollutant emissions would cause significant impacts under CEQA. BAAQMD's recommended significance thresholds were included in its updated CEQA Guidelines (BAAQMD, 2012); these thresholds are the subject of ongoing litigation. BAAQMD is no longer recommending that their thresholds be used as a generally applicable measure of project's significant air quality impacts; BAAQMD recommends that lead agencies determine appropriate air quality thresholds of significance based on substantial evidence in the record (<http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-ace-ceqa/updated-ceqa-guidelines>, accessed January 19, 2017). The District has independently reviewed BAAQMD recommended thresholds in its updated CEQA Guidelines including BAAQMD's Justification Report which explains the agency's reasoning for adopting such thresholds, and determined that they are supported by substantial evidence and are appropriate for use to determine significance in environmental review of this Project. The BAAQMD's numerical thresholds for ROG, NO_x, PM₁₀, and PM_{2.5}; these thresholds were shown in **Table 3-2** below.

TABLE 3-2
AVERAGE DAILY CONSTRUCTION
CRITERIA POLLUTANT EXHAUST EMISSIONS (pounds per day)

	ROG	NO _x	Exhaust PM ₁₀	Exhaust PM _{2.5}
Construction	4.23	29.39	1.79	1.72
<i>BAAQMD Significance Threshold</i>	54	54	82	54
Over/(Under) Threshold	(49.77)	(24.61)	(80.21)	(52.28)
Significant Impact?	No	No	No	No

SOURCE: ESA, 2016, See Appendix A

With regard to fugitive dust emissions, the BAAQMD (2009) *Revised Draft Options and Justification Report* recommends that lead agencies focus on implementation of dust control measures to ensure that impacts would be less than significant rather than comparing estimated levels of fugitive dust to quantitative significance thresholds (BAAQMD, 2009).

Construction

Construction activities associated with the project would occur over a period of approximately 14 months. Onsite emission sources would consist of diesel and gasoline fueled construction equipment and offsite emission sources would consist of hauling, and vendor and worker vehicles going to and from the project site. Further details of the project's construction activities can be found in the Project Description. Emissions from construction activities to build the project as described above were estimated using the California Emissions Estimator Model version 2013.2.2 (CalEEMod v2013.2.2). Average

daily emissions for the entire project were calculated by taking the total construction emissions and dividing by the total construction workdays, which is estimated to be 279 days based on CalEEMod's default construction schedule for the specified land uses.

As shown in Table 3-2 below, estimated construction criteria pollutant emissions from the project would be well below the BAAQMD significance thresholds and thus the air quality impact from construction emissions of criteria pollutants would be less than significant.

In addition to exhaust emissions, emissions of fugitive dust would also be generated by Project construction activities associated with earth disturbance, and travel on paved and unpaved roads, etc. If uncontrolled or not managed, construction-related air emissions resulting from the Project would be significant.

As mentioned above, the BAAQMD recommends implementation of best management practices to reduce dust emissions from project construction. The District would implement District BMP AQ-1 to minimize the amount of dust emissions generated during construction. This District BMP AQ-1 contains substantially similar control measures recommended by BAAQMD as basic control measures for dust emissions. With the implementation of BMP AQ-1, the air quality impact associated with dust emissions from construction would be less than significant.

BMP AQ-1, Use Dust Control Measures. The following Bay Area Air Quality Management District (BAAQMD) Dust Control Measures will be implemented:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day;
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered;
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited;
4. Water used to wash the various exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, etc.) will not be allowed to enter waterways;
5. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph);
6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
7. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations), and this requirement shall be clearly communicated to construction workers (such as verbiage in contracts and clear signage at all access points);

8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications, and all equipment shall be checked by a certified visible emissions evaluator;
9. Correct tire inflation shall be maintained in accordance with manufacturer's specifications on wheeled equipment and vehicles to prevent excessive rolling resistance;
10. Post a publicly visible sign with a telephone number and contact person at the lead agency to address dust complaints; any complaints shall be responded to and take corrective action within 48 hours. In addition, a BAAQMD telephone number with any applicable regulations will be included;

With implementation of BMP AQ-1, construction of the Project would not result in a violation of an air quality standard or contribute significantly to an existing or projected air quality violation. Therefore, the associated impact would be less than significant.

Operation

The purpose of the project is to provide a warehouse for storage to support the existing activities at the project site. Once construction is complete, the proposed project's additional operational activity would be limited to warehouse lighting and landscaping for open space area surrounding the warehouse. Existing outdoor storage of sand, gravel/rock, and soil would still occur to support water facility repair and maintenance. The project would have operational emissions less than one pound per day of average daily Reactive Organic Gases (ROG) from these activities and no other criteria pollutant emissions with respect to the BAAQMD's operational thresholds (see Appendix A). Therefore, long-term operational emissions would not result or contribute to a violation of an air quality standard and impacts would be less than significant.

- c) **Less than Significant.** In developing thresholds of significance for air pollutants, the BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project would exceed the identified significance thresholds, its emissions would be cumulatively considerable, and if a project would not exceed the significance thresholds, its emissions would not be cumulatively considerable. Based on BAAQMD guidance, if a project would result in an increase in exhaust emissions of ROG, oxides of nitrogen (NO_x), PM₁₀, or PM_{2.5} of more than its respective average daily mass significance thresholds, then it would be considered to contribute considerably to a significant cumulative impact, since the Bay Area is in nonattainment for ozone, PM₁₀, as PM_{2.5} as described in Question 3.b. As noted above, Project construction would have the potential to generate elevated levels of dust (i.e., PM₁₀). If uncontrolled or not managed, impact would be significant.

As stated in Question 3.b above, short-term construction exhaust emissions would not exceed the applicable significance thresholds and implementation of BMP AQ-1 would ensure that impacts associated with fugitive dust emissions would be less than significant.

Therefore, with implementation of BMP AQ-1, the Project would not result in a cumulatively considerable net increase of criteria pollutants. The impact would be less than significant.

As noted in Question 3.b above, there would be negligible long-term operational emissions from the Project. Therefore, operational impacts attributable to the Project would be less than significant.

- d) ***Less than Significant.*** The BAAQMD recommends that lead agencies assess the incremental toxic air contaminant (TAC) exposure risk to all sensitive receptors within a 1,000-foot radius of a project's fence line. Long-term operations that would be associated with the Project would result in no new TAC emissions. However, short-term project construction activities would generate diesel particulate matter (DPM), which is considered to be a TAC. On-site DPM exhaust emissions that would be generated during construction would be due to the use of diesel-fuel off-road equipment.

The dose to which receptors are exposed is the primary factor affecting health risk from exposure to TACs. Dose is a function of the concentration of a substance or substances in the environment and the duration of exposure to the substance. According to the Office of Environmental Health Hazard Assessment (OEHHA), health risk assessments, which determine the exposure of sensitive receptors to TAC emissions, should be based on a 70-year exposure period when assessing TACs (such as DPM) that have only cancer or chronic non-cancer health effects. The evaluation of the acute health effects of DPM exposure are typically not warranted unless there is a certain unusual situation such as the location of nearby receptor that is above the emission release point, e.g. on a hillside or multistory apartment, which is not an instance for this project (OEHHA, 2015). Such health risk assessments should be limited to the duration of the emission-producing activities associated with the project.

As shown in **Figure 3-5**, the nearest receptors are residences immediately to the west on Altimira Circle and abut the parcel where the project would be constructed. Construction activities would occur throughout the project site but the residences would be approximately 115 feet from the warehouse where most of the construction activities would occur.

DPM exhaust emissions from the project's construction would be short term and are estimated to occur within a 14-month maximum period, but active construction activities would likely occur over a shorter period. The construction subphases that would require the most heavy-duty diesel-fueled off-road equipment and would emit the most DPM emissions are demolition, site preparation, grading, and paving. According to the warehouse construction schedule depicted in the Project Description and assumed for the CalEEMod air emissions modeling (see Appendix A), these subphases would only occur for 51 out of the 279 days of total projected construction. The remaining subphases that would comprise the majority of the construction timeline would be building construction and architectural coating, which would require less diesel-fueled construction equipment

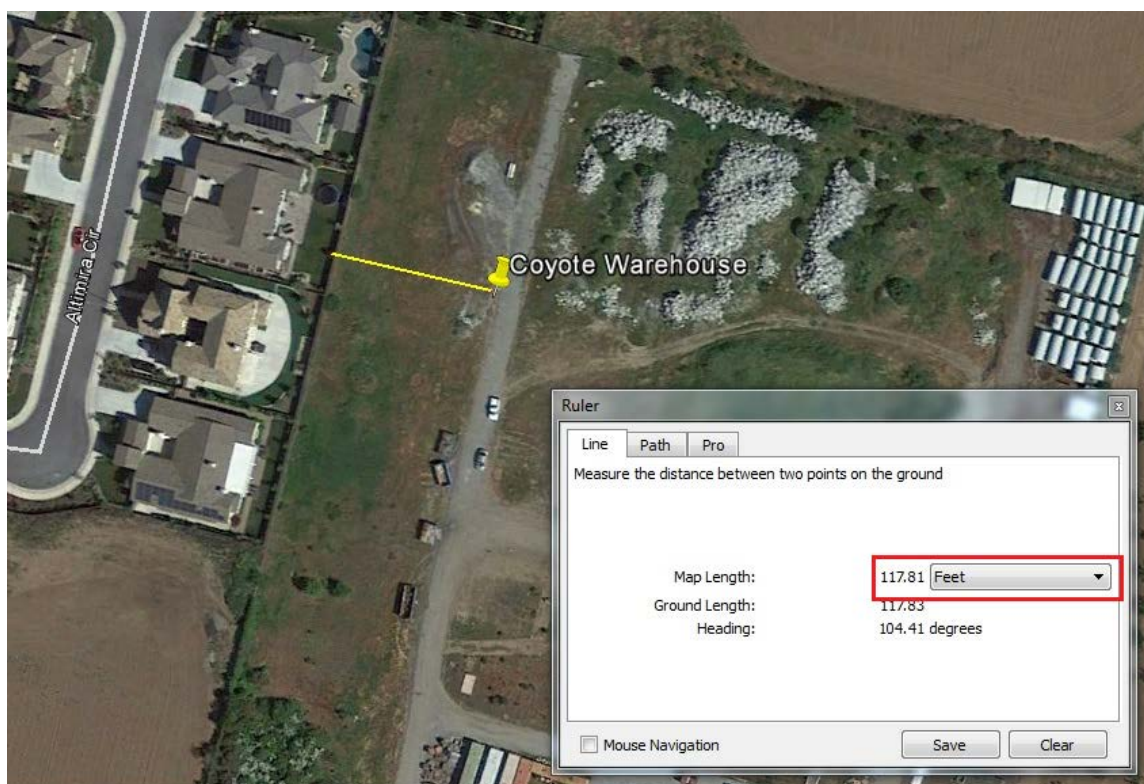


Figure 3-5
Distance Between nearest Receptors and Location of Warehouse

and therefore would generate much lower DPM emissions. Appendix A shows the breakdown of $PM_{2.5}$ emissions² from each subphase.

Table 3-2 above shows that the average daily $PM_{2.5}$ emissions from construction at the project site would be up to 1.72 pounds per day. Because the daily emissions at the project site would only occur over a period of up to 279 workdays, compared to the 70-year exposure period used in health risk assessments, project-related DPM emissions would not be considered substantial and would not result in a significant incremental cancer risk. In addition, these calculations assume the contractor for the proposed Project would implement anti-idling measures when operating construction equipment in compliance with BAAQMD and CARB standard portable equipment requirements, would further limit receptors to unnecessary exposure to DPM emissions. Therefore, the impact related to exposing sensitive receptors to substantial pollutant concentrations from construction of the Project would be less than significant. There would be no DPM emissions from the operation of the project. Since the exposure period would be short, it is not considered cumulatively considerable for health risks. As a result, project impacts associated with the exposure of receptors to substantial pollution concentrations would be less than significant.

² $PM_{2.5}$ exhaust emissions are conservatively used here as a surrogate for DPM. The estimation of ambient $PM_{2.5}$ concentration is the key determinant in performing health risk assessments based on guidance from OEHHA and BAAQMD.

- e) **Less than Significant.** Equipment that would be used to construct the project may emit objectionable odors associated with combustion of diesel fuel. However, these emissions would be temporary and intermittent in nature and the closest residences would be more than 100 feet from the warehouse where most of the construction activities would occur. The predominant wind direction in the project area is from the northwest (Windfinder, 2017). Therefore, at the Project site winds mostly blow away from the closest residents. The closest residences southeast of the proposed warehouse site are at distances of over 2,000 feet. At this distance, Project construction emissions would be sufficiently dispersed and would not result in objectionable odors. Therefore, odors associated with diesel combustion during construction activities would not affect a substantial amount of people and the associated impact would be less than significant. There would be no expected operational odors once the warehouse is constructed and no long-term impact would occur. Therefore, impacts associated with the Project creating objectionable odors affecting a substantial number of people would be less than significant.

References

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3.2.4 Biological Resources

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
4. BIOLOGICAL RESOURCES — Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Study Area

The study area for biological resources included the Project area with an appropriately-sized buffer (e.g., from approximately 50 to 500 feet) where resources were inventoried to facilitate the assessment of potential direct and indirect impacts to biological resources. Bordering the Project site to the north and west are non-native grassland fields, each approximately 15- to 20 acres in size, with residential developments just beyond these open areas. East of the Project site is an orchard, and south is a parking area, trailers, storage bins, a substation and maintenance building belonging to the District. The orchard to the east of the Project site is private property and could not be accessed; a visual inspection was conducted by looking through the chain link fence on the east edge of the Project site. The Project site includes a few mature trees along the northern edge of the Project site and among the buildings south of the Project site.

A habitat assessment was conducted at the Project site on October 15, 2015, by a wildlife biologist from ESA, Inc. The Project site is accessed via a security gate and is surrounded by a chain link fence. The Project site is highly disturbed, consisting of asphalt parking areas, packed gravel roads, equipment staging areas, large rock piles and, primarily, ruderal vegetation; however, one special status plant, Hall's bush mallow (*Malacothamnus halii*), was observed at

the site and is addressed under Question 4.a, below. Wildlife observed within 100 feet of the site included black-tailed jackrabbit (*Lepus californicus*), ground squirrel (*Spermophilus beecheyi*), black phoebe (*Sayornis nigricans*), American crow (*Corvus brachyrhynchos*), white-crowned sparrow (*Zonotrichia leucophrys*), house finch (*Haemorhous mexicanus*), rock pigeon (*Columba livia*), California scrub jay (*Aphelocoma claiornica*), turkey vulture (*Cathartes aura*), and northern harrier (*Circus cyaneus*). The nearest permanent water bodies are Coyote Creek, approximately 0.35 mile north of the Project site, and Anderson Reservoir, approximately 0.6 mile northeast of the Project site. An approximately 275 foot long by 20 foot wide swale is present directly behind the office buildings located southwest of the Project site, on the Reclamation-owned parcel. The swale was constructed to collect stormwater runoff from the immediate site and is connected to an inlet drain approximately 200 feet north of the swale. The swale is dominated by typical uplands weeds and shrubs, and based on vegetation, shape and the absence of a connection to waterways offsite, would not be considered a jurisdictional wetland. From a jurisdictional standpoint, the swale is a stormwater retention facility on dry land. No special-status plants or wildlife were observed in the swale, and the habitat observed would not be expected to support such species. A discussion of the Project's potential effects on special-status species and the resultant level of impacts are provided below.

a) ***Less than Significant with Mitigation.***

Special-status Species

The California Natural Diversity Database (CNDDB) documents 73 special-status plant and wildlife species within the Morgan Hill, San Jose East, Lick Observatory, Isabel Valley, Mt. Sizer, Gilroy, Mt. Madonna, Loma Prieta, and Santa Teresa Hills U.S. Geological Survey (USGS) quadrangles (CDFW, 2015). These quadrangles include that in which the Project site is located and the eight surrounding quadrangles. Habitats at the Project site were assessed for their potential to support special-status species using the CNDDB (CDFW, 2015), the U.S. Fish and Wildlife Service's endangered and threatened species database (USFWS, 2015), the California Native Plant Society's Electronic Inventory (CNPS, 2015) and the site visit on October 15, 2015.

According to the CNDDB, California tiger salamander (*Ambystoma californiense*; CTS) and western pond turtle (*Emys marmorata*; WPT), have been observed within 0.6 – 0.8 mile of the Project site between 2001 and 2002. The Project site is approximately 0.35 mile south of Coyote Creek and 0.6 mile southwest of Anderson Reservoir. Malaguera Avenue and Cochrane Road run between the study area and these water bodies. Also present are non-native grasslands and residential developments north, northwest and west of the site and orchards and agricultural fields east and northeast of the site, all of which would be restrictive to migration. CTS do not breed in creeks; however, they could conceivably breed at the edges of Anderson Reservoir. CTS are known to travel up to one mile between breeding sites and upland areas where they aestivate in burrows. Although the Project site is adjacent to open fields and an orchard, ground squirrels and their burrows were not observed in the open space surrounding the Project site. Although squirrels and burrows were observed within the fenced project site, CTS are unlikely to be present in the

project area due to the fragmented habitat between the project area and potentially breeding sites, and would be more likely to find suitable habitat in the undisturbed uplands near the lake. WPT is a generally aquatic species preferring quiet waters of ponds and lakes, or possibly deep pools in wide rivers. They are known to use ground squirrel burrows for hibernation (Stebbins and McGinnis, 2012); however, because the Project site is surrounded by fencing, dispersing WPT would not be able to access the ground squirrel burrows therein. Neither CTS nor WPT are expected to be impacted by Project activities. Regardless, the District's compliance with VHP conditions (including payment of impact fees and adherence to conditions), would maintain impacts to these VHP-covered species to less-than-significant levels should they be present.

A burrowing owl (*Athene cunicularia*) observation from 2008 is listed in the CNDDDB as "possibly extirpated." During the site visit in October 2015, the Project site was observed to have a number of burrows actively being used by ground squirrels; in addition, burrows with entrances approximately 4 – 6 inches in diameter, were observed east of the Project footprint. These burrows were examined for burrowing owls or burrowing owl sign and neither was detected. Per the SCVHP, western burrowing owl habitat surveys are required in the SCVHP study area in all modeled occupied nesting habitat. Although the Project site is not within the western burrowing owl survey area, the burrows present on site are of sufficient size to provide potentially suitable habitat for this species (CDFG, 2012); therefore, there is a small potential for them to be present. Compliance with SCVHP **Condition 15, Western Burrowing Owl**, would minimize the potential impact. This condition requires western burrowing owl habitat surveys to be conducted during both breeding and non-breeding seasons. If suitable habitat is identified during the survey, and if project does not fully avoid impacts to the suitable habitat, preconstruction surveys will be required. Specific avoidance measures during breeding and non-breeding season (including establishment of buffer zone, monitoring by biologist during construction) will be implemented in compliance with the condition. Compliance with SCVHP Condition 15 would minimize the potential impact on western burrowing owl and ensure the impact to less than significant.

In addition, special-status and other wildlife can be impacted by potentially hazardous conditions for wildlife within construction sites. These sites commonly include open trenches and pipes that can entrap wildlife, or may have trash left on the site that can attract special-status wildlife or their predators. District BMP BI-10 and BMP BI-11 would further reduce the impact of wildlife hazards on the construction site.

BMP BI-10, Avoid Animal Entry and Entrapment. To prevent entrapment of animals, all excavations, steep-walled holes or trenches more than 6-inches deep will be secured against animal entry at the close of each day. Any of the following measures may be employed, depending on the size of the hole and method feasibility:

1. Hole to be securely covered (no gaps) with plywood, or similar materials, at the close of each working day, or any time the opening will be left unattended for more than one hour; or

2. In the absence of covers, the excavation will be provided with escape ramps constructed of earth or untreated wood, sloped no steeper than 2:1, and located no farther than 15 feet apart; or
3. In situations where escape ramps are infeasible, the hole or trench will be surrounded by filter fabric fencing or a similar barrier with the bottom edge buried to prevent entry.

BMP BI-11, Minimize Predator Attraction. Remove trash daily from the worksite to avoid attracting potential predators to the site.

Nesting Birds

Trees, shrubs, and structures are located within 50 feet of the construction area, all of which provide suitable habitat for nesting birds. Although many bird species do not have any special status designation, the Migratory Bird Treaty Act (MBTA), as well as California Department of Fish and Game Code, afford protection to almost all nesting native bird species. Breeding birds are protected under California Fish and Game Code Section 3503 and raptors are protected under Section 3503.5. In addition, Section 3513 of the Code and the Federal Migratory Bird Treaty Act (16 USC, Sec. 703 Supp. I, 1989) prohibit the killing, possession, or trading of migratory birds. Finally, Section 3800 of the Code prohibits the taking of non-game birds, that are defined as birds occurring naturally in California that are not game birds or fully protected species.

Tree removal and trimming have the potential to result in direct harm to individual birds through “take” of their nests, eggs, or nestlings. Equipment staging and construction activities may also result in indirect impacts to protected breeding birds resulting from construction noise and activity, even when the physical nest is unaffected. An example of an indirect impact to the nest would be nest abandonment due to construction noise during incubation or brooding, which would result in mortality (“take”) of eggs or nestlings. If any of these potential impacts were to occur, they would be considered significant.

To minimize impact on migratory and other birds, SCVHP Condition 1 and District BMP BI-5 would be implemented and would require the following:

SCVHP Condition 1, Avoid Direct Impacts on Legally Protected Plant and Wildlife Species. In addition to other legal protections, fully protected bird species that are known to occur in the SCVHP study area, and bird species specifically covered by the SCVHP, are protected by the MBTA. Actions conducted under the SCVHP must comply with the provisions of the MBTA and avoid killing or possessing covered migratory birds, their young, nests, feathers, or eggs.

BMP BI-5, Avoid Impacts to Nesting Migratory Birds. Nesting birds are protected by state and federal laws. The District will protect nesting birds and their nests from abandonment, loss, damage, or destruction. Nesting bird surveys will be performed by a qualified biologist prior to any activity that could result in the abandonment, loss, damage, or destruction of birds, bird nests, or nesting migratory

birds. Inactive bird nests may be removed with the exception of raptor nests. Birds, nests with eggs, or nests with hatchlings will be left undisturbed.

While VHP Condition 1 calls for resource avoidance, it does not include recommendations for seasonal avoidance of nesting birds or requirements regarding timing of pre-construction surveys (i.e., the nesting bird season versus the non-nesting season), nor does it define the nesting bird season during which surveys are required, and does not include specific actions for mitigation if an active nest is discovered within a certain distance of the construction site, or how to mitigate direct and indirect impacts to nesting birds when construction-related activities are implemented during the nesting season. If a nesting bird's active nest were destroyed (e.g., run over by construction equipment) or removed (e.g., during vegetation trimming or removal), or if the bird were to abandon an active nest due to construction noise, that would result in a significant impact. BMP BI-5 would further address the impact to nesting birds by requiring avoidance of construction-related work during the nesting bird season, or if avoidance is not possible, pre-construction nesting bird surveys and establishment of no-construction buffer zones around active bird nests.

Still, neither protective action provides specific guidance to ensure that these actions would adequately mitigate any potential impacts to active nests. If active nests are discovered prior to, or during, Project construction, the impact would still be considered significant under CEQA. Therefore, Mitigation Measure BIO-1 is proposed to specifically address this potentially significant impact.

Mitigation Measure BIO-1: If Active Bird Nests are Located. If active nests are located during the pre-construction bird nesting surveys, no-disturbance buffer zones shall be established around nests, with a buffer size established by the qualified biologist. Typically, these buffer distances are between 50 feet and 250 feet for passerines and between 300 feet and 500 feet for raptors. These distances may be adjusted depending on the level of surrounding ambient activity (i.e., if the Project area is adjacent to a road or community development) and if an obstruction, such as a building structure, is within line-of-sight between the nest and construction. Reduced buffers may be allowed if a full-time qualified biologist is present to monitor the nest and has authority to halt construction if bird behavior indicates continued activities could lead to nest failure. Buffered zones shall be avoided during construction-related activities until young have fledged or the nest is otherwise abandoned.

With application of this mitigation measure, the impact to nesting bird species would be less than significant.

Special-status Plants

According to the CNDDDB, Hall's bush mallow, Coyote ceanothus (*Ceanothus ferrisiae*), smooth lessingia (*Lessingia micradenia* var. *glabrata*), Mt. Hamilton fountain thistle (*Cirsium fontinale* var. *campylon*) and woodland woollythreads (*Monolopia gracilens*) has been observed within 0.5 mile of the Project site. A single Hall's bush mallow plant was observed on October 15, 2015 within the Project site, approximately 14 feet away from the access road associated with the Project.

The California Native Plant Protection Act (CNPPA) allows the California Fish and Game Commission to designate plants as rare and endangered. This Act prohibits take of endangered or rare native plants with some exceptions. Plants with a California Rare Plant Rank (CRPR) of 1B are rare throughout their range with the majority of them endemic to California. Most of the plants that are ranked 1B have declined significantly over the last century. All of the plants with the California Rare Plant 1B meet the definitions of the California Endangered Species Act. Hall's bush mallow has a CNPS rare plant rank of 1B.2 and warrants protection under CEQA.

As described above, the plant is currently located adjacent to an access road to the proposed project's footprint, making it vulnerable to being impacted by construction-related vehicular traffic, materials staging or other project-related activity. In addition, pipe replacement segments (for use on the Bureau of Reclamation San Felipe-Central Valley Project [CVP]) are stored below ground directly underneath the one known sensitive plant at the District Coyote Warehouse parcel. As described in the Project Description (Chapter 2) the District has agreements with Reclamation to maintain this portion of the CVP. If this plant is disturbed or otherwise impacted during construction, it would be considered a significant impact.

It is anticipated that protection of the plant using a buffer during the construction project can be accomplished. Therefore, the District is proposing Mitigation Measure BIO-2 (see text below) to avoid or minimize potential impacts to Hall's bush mallow. This mitigation measure requires identification of any Hall's bush mallow plants prior to construction and establishment of a buffer around the plants during construction. If avoidance of a plant is infeasible, the District will remove the plant prior to construction and replant it at an appropriate relocation site or collect seed for storage for future planting. Implementation of Mitigation Measure BIO-2 would reduce the impact on Hall's bush mallow to a less-than-significant level.

Mitigation Measure BIO-2: Avoid and Minimize Impacts to Hall's Bush Mallow. Prior to the beginning of Project construction, a qualified botanist shall identify any Hall's bush mallow plants on the project site and establish a 5- to 10-foot buffer using k-rail, construction fencing or other appropriate and effective visible fencing or barrier (use new or phytosanitary-treated materials)³ around the plant during construction activities. The qualified botanist shall mark the location of any Hall's bush mallow plants and advise the construction crew on how to avoid damaging the plant during Project construction. The protective fencing or barrier(s) shall remain in place and be maintained through construction demobilization.

If avoidance of the plant is infeasible, the plant shall be removed prior to construction and replanted at an appropriate relocation site. Materials and tools used in the transplantation effort will be new or sanitized prior to use. The relocation site shall be one that is not expected to be disturbed in the future, such as a mitigation site or a developed xeric landscape garden or a relatively protected

³ Phytosanitation can be accomplished by thoroughly cleaning tools and materials so they are free of soil and debris, and then spraying them down with a 70% isopropyl alcohol solution and allowing them to air dry prior to use.

District site (e.g. Santa Teresa Water Treatment Plant near existing Hall's bush mallow plant location). In addition, prior to the beginning of Project construction, and during the appropriate season for seed collection (i.e., June through September, subject to seasonal variation), a qualified botanist shall collect seed from the specimen and place it in a District-approved seed bank institution (such as Rancho Santa Ana Botanic Garden) for future planting by the District once an appropriate site is identified, or for permanent seed conservation bank storage.

- b) **No Impact.** The Project site is not within or adjacent to any riparian habitat or other sensitive natural community. Sycamore alluvial woodland is present approximately 1.5 miles northwest of the study area along Coyote Creek, and serpentine bunchgrass is present approximately 2 miles southwest of the Project area. Therefore, the Project would have no impact to riparian habitat or other identified natural communities.
- c) **No Impact.** Wetlands are a subset of “waters of the United States,” which are defined in the Code of Federal Regulations (CFR) (33 CFR 328.3[a]; 40 CFR 230.3[s]) as rivers, streams, mud flats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which could affect interstate or foreign commerce including any such waters. These waters fall under the jurisdiction of the U.S. Army Corps of Engineers (Corps) and San Francisco Bay Regional Water Quality Control Board (RWQCB) under Sections 404 and 401 of the Clean Water Act, respectively. In addition, waters of the state are regulated under California Department of Fish and Game Code Section 1600 et seq, and by the RWQCB under the Porter-Cologne Water Quality Control Act.

No wetlands or other waters of the U.S. or of the State occur within the Project site. Therefore, no impacts to these resources would result from implementation of the Project.

- d) **Less than Significant.** The Project site is currently a disturbed site surrounded by security fencing, and is unlikely to be used for terrestrial migrations. The height and location of the building would not impede bird migration. Research on migrating passerines and shorebirds shows they are often attracted to utility poles, radio towers, large buildings, and wind turbines, and collisions with these structures can prove fatal. Collisions are more likely to occur at night, during storm events, or along known migration routes. Lights on these structures can confuse migrating birds and increase chances of collision. Other attractants for birds include bird feeders and bird baths, which can cause birds to approach a building and potentially collide with a window, mistaking the reflection for open space.

Although the Project is located in the Pacific Flyway, a known bird migration route, the building size, combined with the open space surrounding the building, would allow migrating birds to avoid the building. The Project would include skylights to provide interior lighting and wall mounted fixtures on the exterior of the warehouse for use during emergencies. The Project does not include pole mounted lighting. Attractants such as large glass windows, illuminated windows at night, bird feeders and bird baths would

not be present. For the reasons stated above, this Project would have a less than significant impact on the movement of migratory wildlife.

Potential impacts to avian nursery sites are addressed in Question 4.a above.

- e) **No Impact.** The Project site includes mature trees along the northern edge of the Project site. The City of Morgan Hill has a tree ordinance (Chapter 12.32 of the Municipal Code) that states it is unlawful to cut down, remove, poison, or otherwise kill or destroy any significant tree or community of trees without a tree removal permit. No tree removal is planned as part of the Project; therefore, the Project would not conflict with the City's tree ordinance and no impact would occur.
- f) **No Impact.** As described in the Project Description chapter, the Project site is within the planning area of the SCVHP (Santa Clara County, 2012). The plan seeks to protect, restore, and enhance habitats in the Santa Clara Valley and streamline the permitting process for projects covered by the SCVHP. As described in Section 1.9, *Environmental Protection Measures*, the District is one of the original applicants on the SCVHP, which is a Habitat Conservation Plan and Natural Community Conservation Plan. The proposed site development activities are described by the SCVHP as a covered project. The District would comply with all SCVHP conditions and AMMs applicable to the proposed development activities. Therefore, the proposed Project would not be in conflict with the SCVHP and no impact would occur.

References

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3.2.5 Cultural Resources

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
5. CULTURAL RESOURCES — Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☒	☐
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☒	☐	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐

Discussion

- a) **No Impact.** CEQA Guidelines Section 15064.5 requires the lead agency to consider the effects of a project on historical resources. A historical resource is defined as any building, structure, site, object, or district listed in or determined to be eligible for listing in the California Register of Historical Resources (California Register), or determined by a lead agency to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, or cultural annals of California. The following discussion focuses on architectural and structural resources. Archaeological resources, including archaeological resources that are potentially historical resources according to Section 15064.5, are addressed under Question 5.b, below.

The Project site is undeveloped without any buildings or structures that could be considered historical resources as defined by CEQA Section 15064.5. Background research revealed no historic-era resources of the built environment on or adjacent to the Project site. The proposed warehouse would be constructed on open, undeveloped land within Coyote Pumping Plant, which is a modern industrial facility constructed circa 1985. Prior to this time, the area had been in agricultural use for row crops. As there are no historical resources on or adjacent to the Project site, the Project would have no impact on historical resources and no mitigation would be necessary.

- b) **Less than Significant.** This section discusses archaeological resources, both as historical resources according to Section 15064.5 as well as unique archaeological resources as defined in Section 21083.2(g). A significant impact would occur if the project would cause a substantial adverse change to an archaeological resource through physical demolition, destruction, relocation, or alteration of the resource.

ESA completed a records search at the Northwest Information Center (NWIC) of the California Historical Resources Information System on September 30, 2015 (File No. 15-0510). The review included the Project site and a ½-mile radius. Previous surveys, studies, and site records were accessed. ESA also reviewed records in the Historic

Property Data File for Santa Clara County, which contains information on places of recognized historical significance including those evaluated for listing in the *National Register of Historic Places*, the *California Register of Historical Resources*, the *California Inventory of Historical Resources*, *California Historical Landmarks*, and *California Points of Historical Interest*. The purpose of the records search was to (1) determine whether known cultural resources have been recorded in the Project vicinity; (2) assess the likelihood for unrecorded cultural resources to be present based on historical references and the distribution of nearby sites; and (3) develop a context for the identification and preliminary evaluation of cultural resources.

Base maps at the NWIC indicate that a recent cultural resources study has been completed that included the Project site (GANDA, 2010). This study, which consisted of background research and a pedestrian surface survey conducted by a qualified archaeologist, did not identify cultural resources. In 1998, Pacific Legacy completed an archaeological survey of the parcels immediately north and west of the Project site and did not identify cultural materials in the immediate vicinity (Holson, 1998). Additionally, archaeological monitoring completed for the District's Cross Valley Pipeline in 1984–1985 did not identify archaeological materials in the vicinity of the Project site (Hampson and Breschini, 1986).

The Pacific Legacy survey and the 1984–1985 archaeological monitoring did identify cultural materials associated with three nearby prehistoric sites. These sites are approximately 0.3 mile to the north of the Project site and consist of a series of prehistoric occupation areas with midden soil, lithic tools, groundstone tools, and faunal fragments (CA-SCL-159/H, -160, and -358). Two historic-era houses are also components of CA-SCL-159/H. The sites are adjacent to the lower terraces of the Diablo Range along Coyote Creek.

Archaeologists from Holman & Associates conducted a pedestrian surface survey and a limited subsurface exploration in 2011 for the Cochrane-Borello Residential Development Project, which is adjacent to the Project site. The study focused on prehistoric site CA-SCL-159/H and concluded that the archaeological site is not eligible for listing in the California Register (City of Morgan Hill, 2012:141). Archaeological monitoring was recommended for the area around CA-SCL-159/H, which included Phase 1 and Phase 2 of the Cochrane-Borello Residential Development Project. These development phase areas are approximately 400 feet from the current Project site.

Based on the existing conditions, prior disturbance, and survey results, the Project would unlikely impact archaeological resources; however the unanticipated discovery of archaeological materials cannot be entirely discounted. The inadvertent discovery and disturbance of archaeological resources could result in impact to such resources. The District would implement BMP CU-1 (see text below) to minimize this potential impact. BMP CU-1 requires avoidance measures and appropriate treatment of archaeological resources if they are discovered during project construction. With

implementation of this BMP as defined in the Project Description, impacts associated with potential discovery would ensure that the Project impacts on of archaeological materials would be less than significant.

BMP CU-1, Accidental Discovery of Archaeological Artifacts or Burial Remains. If historical or unique archaeological artifacts are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. Work at the location of the find will halt immediately within 30 feet of the find. A “no work” zone shall be established utilizing appropriate flagging to delineate the boundary of this zone. A Consulting Archaeologist will visit the discovery site as soon as practicable for identification and evaluation pursuant to Section 21083.2 of the Public Resources Code and Section 15126.4 of the California Code of Regulations. If the archaeologist determines that the artifact is not significant, construction may resume. If the archaeologist determines that the artifact is significant, the archaeologist will determine if the artifact can be avoided and, if so, will detail avoidance procedures. If the artifact cannot be avoided, the archaeologist will develop within 48 hours an Action Plan which will include provisions to minimize impacts and, if required, a Data Recovery Plan for recovery of artifacts in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines.

If burial finds are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. Upon discovering any burial site as evidenced by human skeletal remains, the County Coroner will be immediately notified and the field crew supervisor shall take immediate steps to secure and protect such remains from vandalism during periods when work crews are absent. No further excavation or disturbance within 30 feet of the site or any nearby area reasonably suspected to overlie adjacent remains may be made except as authorized by the County Coroner, California Native American Heritage Commission, and/or the County Coordinator of Indian Affairs (SCVWD, 2014).

By requiring the contractor to stop all ground disturbance if an archaeological resource is encountered during excavation, and to implement actions to investigate the discovery and recover or protect the cultural materials by a qualified professional, the BMP would bring the impact to archaeological resources to a level of less-than-significant.

- c) ***Less than Significant with Mitigation.*** Paleontological resources are the fossilized evidence of past life found in the geologic record. Despite the tremendous volume of sedimentary rock deposits preserved worldwide, and the enormous number of organisms that have lived through time, preservation of plant or animal remains as fossils is an extremely rare occurrence. Because of the infrequency of fossil preservation, fossils are considered to be nonrenewable resources. Because of the rarity of fossils – particularly vertebrate fossils, and the scientific information they can provide, fossils are highly important records of ancient life.

The Society of Vertebrate Paleontology (SVP) established guidelines for the identification, assessment, and mitigation of adverse impacts to nonrenewable paleontological resources (SVP, 2010). The SVP has helped define the significance of paleontological resources and,

in particular, indicates that geologic units of *high* paleontological potential are those from which vertebrate or significant invertebrate or plant fossils have been recovered in the past (i.e., are represented in institutional collections). The Project site is underlain by Pleistocene-age alluvium (Witter et al., 2006); according to the SVP guidelines, this geologic unit has high paleontological sensitivity. ESA conducted a search of the paleontological locality database of the University of California, Museum of Paleontology (UCMP) to identify vertebrate fossil localities within Santa Clara County (UCMP, 2016). Ten vertebrate fossil locales in Pleistocene-age sediments are listed in the UCMP database from Santa Clara County, comprising 33 fossil specimens including bison, mammoth, horse, and camel. One discovery is near to the Project site at Anderson Reservoir.

Despite the sensitivity of the general area, paleontological resources are not expected to be discovered during Project construction due to the relatively shallow ground disturbance (no greater than 1-foot deep for site grading, 2.5-feet-deep for foundations, and 4-feet-deep for utility trenching). However, in the event that fossils are encountered during excavation they could be inadvertently damaged, which would be a significant impact.

To address this potentially significant impact, the District would implement Mitigation Measure CU-2 to protect potential paleontological resources to the extent practicable.

Mitigation Measure CU-2: Discovery of Paleontological Resources. If potential fossils are discovered during Project implementation, all earthwork or other types of ground disturbance within 50 feet of the find shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the paleontologist may record the find and allow work to continue, or recommend salvage and recovery of the fossil. The paleontologist may also propose modifications to the stop-work radius based on the nature of the find, site geology, and the activities occurring on the site. If treatment and salvage is required, recommendations will be consistent with Society of Vertebrate Paleontology guidelines (2010) and currently accepted scientific practice. If required, treatment for fossil remains may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation of a report for publication describing the finds.

By requiring the contractor to stop all ground disturbance if a paleontological resource is encountered during excavation, and to implement actions to investigate the discovery and recover or protect the fossil remains by a qualified professional, the mitigation measure would bring the impact to paleontological resources to a level of less-than-significant.

- d) ***Less than Significant.*** There is no indication from the archival research that any part of the Project site has been used for human burial purposes in the recent or distant past. Therefore, it is unlikely that human remains would be encountered during construction of the Project.

However, implementation of the District BMP CU-1 Accidental Discovery of Archaeological Artifacts or Burial Remains, which requires avoidance measures or the appropriate treatment of human remains, would minimize this impact if human remains are discovered during project construction.

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3.2.6 Geology, Soils, and Seismicity

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
6. GEOLOGY, SOILS, AND SEISMICITY — Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☒	☐
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in 24 CCR 1803.5.3 of the California Building Code ⁴ Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒

Discussion

- a.i) **Less than Significant.** The Project would be located within the San Francisco Bay Area, which generally experiences a high level of seismic activity due to its tectonic setting. Surface rupture occurs when the ground surface is broken due to fault movement during earthquakes. Such hazards generally occur in the vicinity of an active fault trace.

The State Alquist-Priolo Earthquake Fault Zoning Act (Alquist-Priolo Act) prohibits the development of structures for human occupancy across active fault traces. Under the Alquist-Priolo Act, the California Geological Survey (CGS) has established zones on

⁴ The updated CBC no longer cites the 1997 UBC Table 18-1-B for identifying expansive soils. The checklist in Appendix G of the *CEQA Guidelines* still refers to this out of date table. This Initial Study uses the updated CBC section as defined in 24 CCR 1803.5.3 of the California Building Code.

either side of the active fault that delimits areas susceptible to surface fault rupture.⁵ These zones are referred to as fault rupture hazard zones and are shown on official maps published by the CGS.

The Project site is not located within a fault rupture hazard zone. The closest active fault rupture hazard zone is the Calaveras Fault Zone, approximately 2.15 miles northeast (California Divisions of Mines and Geology, 1982). No active faults are known to cross the Project site; therefore, the possibility of surface fault rupture onsite is low. Although fault rupture is not necessarily bound by the limits of a fault hazard zone and movement along an unknown fault is possible, it is considered unlikely to occur in areas outside of the mapped fault rupture hazard zone. Therefore, based on the locations of known faults relative to the Project location, the potential for fault rupture across the Project site is considered less than significant.

- a.ii-iii) **Less than Significant.** The City Studies by the U.S. Geological Survey (USGS, 2008) indicate that there is a 63 percent likelihood of a Richter magnitude 6.7 or higher earthquake occurring in the San Francisco Bay Area in the next 30 years. The Project site could experience a range of groundshaking effects during an earthquake on one of the San Francisco Bay Area faults.⁶ Depending on a variety of factors such as distance to the epicenter, magnitude of the event, and behavior of underlying materials, groundshaking could be significant. Seismic shaking of this intensity can also trigger ground failures caused by liquefaction, potentially resulting in foundation damage, disruption of utility service and roadway damage.⁷ The Project site would be subject to strong groundshaking and is within an area designated by the CGS as having a moderate potential for liquefaction (ABAG, 2016b; ABAG, 2016c).

Any potential damage that could occur due to ground-shaking and liquefaction would be minimized through the adherence to Project design and construction to applicable building code requirements. The Project would be required to adhere to the most current version of the California Building Code (CBC), which includes specifications and seismic design criteria that are created to minimize damage from anticipated groundshaking and secondary effects of liquefaction. Furthermore, the site would be fenced to prevent unauthorized entry. These features would result in minimal risk of

- ⁵ CGS designates zones that are most likely to experience fault rupture, although surface fault rupture is not necessarily restricted to those specifically zoned areas. An active fault is defined by the State of California as a fault that has had surface displacement within Holocene time (approximately the last 11,000 years). A potentially active fault is defined as a fault that has shown evidence of surface displacement during the Quaternary (last 1.6 million years), unless direct geologic evidence demonstrates inactivity for all of the Holocene or longer. This definition does not mean that faults lacking evidence of surface displacement are necessarily inactive. A fault can be sufficiently active if there is some evidence that Holocene displacement occurred on one or more of its segments or branches. A structure for human occupancy is one that is intended for supporting or sheltering any use or occupancy, which is expected to have a human occupancy rate of more than 2,000 person hours per year (CGS, 2007).
- ⁶ Shaking intensity is a measure of ground shaking effects at a particular location, and can vary depending on the overall magnitude of the earthquake, distance to the fault, focus of earthquake energy, and type of underlying geologic material. The Modified Mercalli (MM) intensity scale is commonly used to measure earthquake effects due to ground shaking. The MM values for intensity range from I (earthquake not felt) to XII (damage nearly total).
- ⁷ Liquefaction is the process by which saturated, loose, fine-grained, granular soil, like sand, behaves like a dense fluid when subjected to prolonged shaking during an earthquake.

damage to people or structures if seismic ground shaking or liquefaction occurred. Therefore, the exposure of people or structures to potential substantial adverse effects due to strong seismic ground shaking and liquefaction would be less than significant.

- a.iv) **Less than Significant.** Landslides generally are any type of ground movement that occurs primarily due to gravity acting on relatively weak soils and bedrock on an over-steepened slope. Slope instability is often initiated or accelerated from soil saturation and groundwater pressure, though may also be aggravated by grading activity, such as removal of toe support by excavation or addition of new loads, such as fill placement. Areas that are more prone to landslides include old landslides, the bases or tops of steep or filled slopes, and drainage hollows. The area around the Project site and surrounding area is generally flat with the exception of the areas approximately 0.5 mile north and east of the Project site. The Project site does not have a high susceptibility to landslides based on historical mapping (ABAG, 2016a). Given that the Project site is relatively flat, there are no slopes that would be susceptible to landslides, resulting in minimal risk of a landslide. Therefore, the exposure of people or structures to potential substantial adverse effects due to landslides would be less than significant.
- b) **Less than Significant.** Construction activities associated with the Project would require land disturbing activities such as earthmoving, trenching, and grading that could increase the susceptibility of soils to erosion by wind and/or water, and subsequently result in significant soil loss or erosion. If uncontrolled or not managed, soil erosion resulting from Project construction would be significant.

The Project site is greater than 1.0 acre in size, and, therefore, is subject to the National Pollutant Discharge Elimination System (NPDES) requirements for construction. Project construction would be required to comply with the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance (Order No. 2009-0009-DWQ, as amended) which requires preparation of a Storm Water Pollution Prevention Plan (SWPPP). In addition, the District has BMPs and VHP AMMs and Condition 3 incorporated into the Project Description (Chapter 2). Condition 3 listed below is applicable to all covered projects under the Habitat Plan which apply specifically to its facilities and activities which address stormwater discharge management listed as Part of the Project Description and separately below:

VHP Condition 3, Maintain Hydrologic Conditions and Protect Water Quality. This condition requires that development projects avoid or minimize water quality impacts, consistent with existing National Pollution Discharge Elimination System standards required by the San Francisco and Central Coast Regional Water Quality Control Boards. For detailed information, see Habitat Plan pages 6-12 to 6-13 and Table 6- 2. This condition of the VHP essentially requires a SWPPP and the District will prepare to meet all Regional Board and City of Morgan Hill requirements.

With implementation of VHP Condition 3, the District would require its contractor(s) to prepare and implement a SWPPP that would reduce construction impacts relative to soil

erosion attributable to water and wind. This would include placement of erosion control measures and general site and materials management to reduce soil loss. With implementation of VHP Condition 3, the impact would be less than significant.

The Project includes Best Management Practices (BMPs) that specify erosion control measures. Construction contractor(s) are responsible for implementation of water quality BMPs throughout the construction period. Once constructed, disturbed areas would be paved for site access or covered with gravel, making the potential for long-term erosion or loss of topsoil very low. In addition the District has included use of BMP WQ-16, along with the implementation of BMPs WQ-4, WQ-5, WQ-11 and WQ-15 (see Section 3.2-9, Hydrology and Water Quality). Therefore, with implementation of the required BMPs in addition to Implementation of the SWPPP, including and the aforementioned BMPs would further ensure that, the long-term impact related to soil erosion or loss of topsoil would be less than significant.

As noted above, soil disturbance during Project construction would expose soil to wind erosion. The amount of material eroded by wind increases when soil is relatively dry, broken into smaller particles, and when wind velocity and turbulence are higher. If not addressed, this would contribute to the loss of topsoil on the Project site, which would be considered a significant impact. The District has included BMP AQ-1 to address the entrainment of soil in the atmosphere resulting from Project construction. BMP AQ-1 is described in detail in Section 3.2.3, Air Quality, Question 3.b.

BMP AQ-1, Use Dust Control Measures.

Refer to the full text in Question 3.b above.

Implementation of this BMP during Project construction would ensure that the soil erosion impact from wind erosion would be less than significant.

- c) ***Less than Significant.*** The Project site is underlain primarily by the Pleasanton loam (0 to 2 percent slopes) and the Keefers clay loam (0 to 2 percent slopes) (NRCS, 2016). The Project would be required to adhere to the requirements of the most recent version of the CBC, which includes specifications for site preparations such as compaction requirements for foundations. Therefore, with the incorporation of building code requirements, the potential impacts associated with unstable soils would be less than significant.

Potential impacts related to liquefaction and landslides are discussed under Question 6.a.ii-iii and Question 6.a.iv above, respectively.

- d) ***Less than Significant.*** Depending on the clay and silt content, some soils can expand or shrink with changes in water content. In general, the effects of expansive soils can damage foundations, concrete slabs, and aboveground structures over long periods of time. The Keefers clay loam has a moderate potential for expansion; the Pleasanton loam has a low potential for expansion (NCRA, 2016). The presence of – and geotechnical

recommendations for – expansive soils would be determined through laboratory analysis of soil samples obtained from the site as a part of the site-specific geotechnical investigation required by the CBC prior to issuance of a building permit. Incorporation of the site-specific geotechnical investigation recommendations would minimize hazards associated with expansive soils, if present. This impact would be considered less than significant.

- e) **No Impact.** The Project would not include any elements that would require a septic or other alternative wastewater system. Therefore, there would be no impact related to soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems.

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3.2.7 Greenhouse Gas Emissions

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
7. GREENHOUSE GAS EMISSIONS — Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Discussion

Gases that trap heat in the atmosphere are called greenhouse gases (GHGs). GHGs allow sunlight to enter the atmosphere, but trap a portion of the outward-bound infrared radiation, which warms the air. The process is similar to the effect greenhouses have in raising the internal temperature, hence the name GHGs. Both natural processes and human activities emit GHGs. The accumulation of GHGs in the atmosphere regulates the Earth's temperature; however, emissions from human activities – such as fossil fuel-based electricity production and the use of motor vehicles – have elevated the concentration of GHGs in the atmosphere. This accumulation of GHGs has contributed to an increase in the temperature of the Earth's atmosphere and to global climate change. Global climate change is a change in the average weather on Earth that can be measured by wind patterns, storms, precipitation, and temperature. Although there is disagreement as to the rate of global climate change and the extent of the impacts attributable to human activities, most in the scientific community agree that there is a direct link between increased emissions of GHGs and long-term climate change.

The principal GHGs are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), perfluorocarbons (PFCs), and hydrofluorocarbons (HFCs). CO₂ is the most common reference gas of GHGs. To account for the warming potential of GHGs, GHG emissions are often quantified and reported as CO₂ equivalents (CO₂e).

a) *Less than Significant.*

Construction

Project construction activities that would generate GHG emissions have been described in Section 3.2.3 b) above. Construction GHG emissions were calculated using CalEEMod for fossil-fueled on-site construction equipment and off-site vehicles used to transport construction workers, supplies, and export of material. The CO₂e values were calculated for the entire construction period.

As mentioned in Section 3.2.3 b) above, the BAAQMD released its *Draft CEQA Guidelines*, which contained quantitative operations-related thresholds of significance for GHG emissions. BAAQMD has not adopted significance thresholds for construction-related GHGs; however, it recommends that the lead agency disclose those emissions and

make a determination of impacts in relation to meeting AB 32 goals and other related GHG reduction policies. The BAAQMD's qualitative operation-related threshold for non-stationary source projects is compliance with a qualified GHG reduction strategy if one exists for the community in which the project takes place (BAAQMD, 2012). BAAQMD's quantitative operation-related threshold for non-stationary source projects is 1,100 metric tons of CO₂e per year (BAAQMD, 2010). Since the proposed project would not result in a stationary source it is considered a non-stationary source project; however, the project would generate negligible operational GHG emissions. In order to evaluate this project in a conservative manner, this analysis applied the BAAQMD's non-stationary source operation-related threshold of 1,100 metric tons CO₂e per year to determine if the project would generate direct or indirect GHG emissions that would have a significant impact on the environment.

Project construction GHG emissions that would be associated with onsite and off-site activity were estimated using CalEEMod2013.2.2. Estimated construction GHG emissions that would be associated with the project are presented in **Table 3-3**. Refer to Appendix A for the assumptions used to run CalEEMod to estimate GHG construction emissions that would be associated with the project.

**TABLE 3-3
CONSTRUCTION GREENHOUSE GAS EMISSIONS**

Construction Year	CO ₂ e (metric tons)
<i>BAAQMD GHG Mass Emissions Significance Threshold</i>	1,100
2017	402
Over/(Under) Threshold	(698)
2018	26
Over/(Under) Threshold	(1,074)
Significant Impact?	No
SOURCE: ESA, 2016 (Appendix A)	

As indicated in Table 3-3, short-term total project construction-related GHG emissions would be up to approximately 402 metric tons CO₂e in the first year of construction and 26 metric tons CO₂e in the second year of construction, which would be considerably less than BAAQMD's operations-related quantitative threshold of 1,100 metric tons CO₂e per year for non-stationary sources. Therefore, GHG emissions that would be associated with construction of the project would represent a less-than-significant impact.

Operation

As discussed in Section 3.2.3 b), the project would have minimal operational activities. The GHG emissions that would be associated with these activities are presented in **Table 3-4**. There would only be a slight increase in indirect electricity usage-related

**TABLE 3-4
OPERATIONAL GREENHOUSE GAS EMISSIONS**

Source	CO ₂ e (metric tons)
Area	<1
Energy	14
Total	14
BAAQMD GHG Mass Emissions Significance Threshold	1,100
Over/(Under) Threshold	(1,086)
Significant Impact?	No
SOURCE: ESA, 2016 (see Appendix A).	

GHG emissions relative to warehouse lighting; therefore, there would be a less-than-significant operational impact.

Therefore, the Project's direct and indirect GHG emissions would have a less-than-significant impact on the environment.

- b) **Less than Significant.** The proposed project would take place in the City of Morgan Hill (City), which is in the process of developing a major planning effort known as Morgan Hill 2035. The City is coordinating with the Santa Clara Countywide Climate Action Plan (CAP) to ensure that its CAP is properly integrated into the General Plan Update (Morgan Hill, 2016). However, as of May 2016, the City has not yet developed or adopted a CAP or GHG Reduction Plan. Although there are no local policies or regulations adopted for the purpose of reducing GHG emissions, the proposed project would not conflict with the state's GHG reduction goals under AB 32 as the project would create a small quantity of one-time construction GHG emissions for a short duration and would generate minimal operational GHG emissions, see discussion a) above. As discussed under item a) above, these GHG emissions would be well below the BAAQMD's most applicable threshold. The Project would therefore not conflict with the state's plans, policies, or regulations for the purpose of reducing GHG emissions and the impact would be less than significant.

References

- BAAQMD, 2010. *Draft California Environmental Quality Act Air Quality Guidelines*, May 2010. Available: <http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>. Accessed April 1, 2016.
- BAAQMD, 2012. *Final California Environmental Quality Act Air Quality Guidelines*, May 2012. Available: http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/baaqmd-ceqa-guidelines_final_may-2012.pdf?la=en. Accessed April 1, 2016.
- City of Morgan Hill, 2016. Morgan Hill 2035. Available: <http://morganhill2035.org/project-overview/>. Accessed April 19, 2016.

3.2.8 Hazards and Hazardous Materials

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
8. HAZARDS AND HAZARDOUS MATERIALS — Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☒	☐

Discussion

- a, b) **Less than Significant.** Project construction activities would use hazardous chemicals, such as gasoline, diesel fuel, oils and lubricants, paints and thinners, solvents, and other chemicals.

Construction activities must comply with numerous hazardous materials and stormwater regulations designed to ensure that hazardous materials are transported, used, stored, and disposed of in a safe manner to protect worker safety, and to reduce the potential for an accidental releases of construction-related fuels or other hazardous materials to affect stormwater and downstream receiving water bodies. For example, the California Health and Safety Code and the California Fire Code require contractors to develop and implement a Hazardous Materials Management Plan for their activities that involve the use of hazardous materials. These requirements would ensure that hazardous materials used for construction would be stored in appropriate containers, with secondary

containment to contain a potential release, and to have a spill response plan in place to respond to accidents. District BMPs HM-7, HM-9, and HM-10 would also be implemented as described in the Project Description to minimize impacts associated with transport, use or disposal of hazardous materials on the public and the environment. BMP HM-7 restricts vehicle and equipment cleaning to appropriate locations. BMP HM-9 includes measures to ensure that hazardous materials are properly handled. BMP HM-10 includes measures to prevent accidental release of chemicals, fuels, lubricants, and nonstorm drainage water. Because the contractor would be required to comply with all hazardous materials laws, regulations, and District BMPs HM-7, HM-9, and HM-10 for the transport, use, and disposal of hazardous materials, the impacts associated with the potential to create a significant hazard to the public or the environment would be less than significant.

BMP HM-7, Restrict Vehicle and Equipment Cleaning to Appropriate Locations. Vehicles and equipment may be washed only at approved areas. No washing of vehicles or equipment will occur at job sites.

BMP HM-9, Ensure Proper Hazardous Materials Management. Measures will be implemented to ensure that hazardous materials are properly handled and the quality of water resources is protected by all reasonable means.

1. Prior to entering the work site, all field personnel will know how to respond when toxic materials are discovered.
2. Contact of chemicals with precipitation will be minimized by storing chemicals in watertight containers with appropriate secondary containment to prevent any spillage or leakage.
3. Petroleum products, chemicals, cement, fuels, lubricants, and non-storm drainage water or water contaminated with the aforementioned materials will not contact soil and not be allowed to enter surface waters or the storm drainage system.
4. All toxic materials, including waste disposal containers, will be covered when they are not in use, and located as far away as possible from a direct connection to the storm drainage system or surface water.
5. Quantities of toxic materials, such as equipment fuels and lubricants, will be stored with secondary containment that is capable of containing 110% of the primary container(s).
6. The discharge of any hazardous or nonhazardous waste as defined in Division 2, Subdivision 1, Chapter 2 of the California Code of Regulations will be conducted in accordance with applicable State and federal regulations.
7. In the event of any hazardous material emergencies or spills, personnel will call the Chemical Emergencies/Spills Hotline at 1 800 510 5151.

BMP HM-10, Utilize Spill Prevention Measures. Prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water following these measures:

1. Field personnel will be appropriately trained in spill prevention, hazardous material control, and clean up of accidental spills;
2. Equipment and materials for cleanup of spills will be available on site, and spills and leaks will be cleaned up immediately and disposed of according to applicable regulatory requirements;
3. Field personnel will ensure that hazardous materials are properly handled and natural resources are protected by all reasonable means;
4. Spill prevention kits will always be in close proximity when using hazardous materials (e.g., at crew trucks and other logical locations), and all field personnel will be advised of these locations; and,
5. The work site will be routinely inspected to verify that spill prevention and response measures are properly implemented and maintained.

Compliance with all applicable hazardous materials laws and regulations for the transport, use, and disposal of hazardous materials, and implementation of BMP HM-7, BMP HM-9, and BMP HM-10 would ensure that the impacts relating to hazard to the public or the environment would be less than significant.

- c) **No Impact.** There are no schools located within a 0.25 mile of the Project. The nearest school is Live Oak High School, approximately 0.70 mile southeast of the Project site. Therefore, there would be no impact related to potential exposure of hazardous emissions or acutely hazardous materials, substances, or wastes within 0.25 mile of a school.
- d) **No Impact.** The Project site is not included on any of the environmental databases maintained by the SWRCB GeoTracker (2016) or the DTSC (2016). Therefore, the Project would not cause a significant hazard to the public or the environment related to a known hazardous materials site and no impact would occur.
- e) **No Impact.** The nearest public use airport to the Project site is the South County Airport, also known as the San Martin Airport, located approximately 5.5 miles to the south. The Project site does not lie within any height restriction areas or airport safety zones as defined in the South County Airport Comprehensive Land Use Plan (Santa Clara County Airport Land Use Commission 2016). Therefore, the Project would not result in safety hazards to people residing or working in the Project area. No impact would occur.
- f) **No Impact.** The Project site is not located within the vicinity of a private airstrip. Therefore, the Project would not result in a safety hazard to people working or residing in the area due to the proximity of a private airstrip and no impact would occur.
- g) **No Impact.** The Project would not interfere with an emergency response plan or emergency evacuation plan; none are applicable to the Project site. Therefore, no impact would occur.
- h) **Less than Significant.** According to California Department of Forestry (CAL FIRE) fire hazard mapping, the Project site would not be within an area designated as very high or

high fire hazard zones (CAL FIRE, 2007; 2008). Project construction would include the use of mechanized equipment, fuels and other potentially flammable substances. Adherence to existing laws and regulations governing the use of hazardous materials (discussed under Question 8.b above), would reduce potential for the Project to cause a wildland fire, or exposing people or structures to a significant risk of loss, injury or death as a result of a wildfire. However, it is anticipated that construction activities would occur during the high fire danger period of April 1 through December 1, as defined in District BMP HM-12.

BMP HM-12, which presents fire prevention measures, is incorporated within the Project Description and will be included in contract documents to minimize potential of fire hazards.

BMP HM-12, Incorporate Fire Prevention Measures.

1. All earthmoving and portable equipment with internal combustion engines will be equipped with spark arrestors.
2. During the high fire danger period (April 1–December 1), work crews will have appropriate fire suppression equipment available at the work site.
3. An extinguisher shall be available at the project site at all times when welding or other repair activities that can generate sparks (such as metal grinding) is occurring.
4. Smoking shall be prohibited except in designated staging areas and at least 20 feet from any combustible chemicals or vegetation.

Compliance with applicable laws/regulations and implementation of BMPs relating to storage and handling of hazardous materials and fire prevention would ensure that this impact would be less than significant.

References

- CAL FIRE, 2007. Fire Hazard Severity Zones in State Responsibility Areas, Santa Clara County, California. November 7, 2007. Available online at: http://frap.fire.ca.gov/webdata/maps/santa_clara/fhszs_map.43.pdf. Accessed January 19, 2016.
- CAL FIRE, 2008. Very High Fire Hazard Severity Zones in Local Responsibility Areas, Santa Clara County, California. October 8, 2008. Available online at: http://frap.fire.ca.gov/webdata/maps/santa_clara/fhszl_map.43.pdf. Accessed January 19, 2016.
- California Department of Toxic Substances Control (DTSC), 2016. EnviroStor database. Available online at: <http://www.envirostor.dtsc.ca.gov/public/>. Accessed January 20, 2016.
- Santa Clara County Airport Land Use Commission. 2016. Final Draft, Comprehensive Land Use Plan, Santa Clara County, South County Airport (amended). November 16.
- State Water Resources Control Board (SWRCB), 2016. GeoTracker database. Available online at: <http://geotracker.waterboards.ca.gov/>. Accessed January 20, 2016.

3.2.9 Hydrology and Water Quality

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
9. HYDROLOGY AND WATER QUALITY — Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of a site or area through the alteration of the course of a stream or river, or by other means, in a manner that would result in substantial erosion or siltation on- or off-site?	☐	☐	☒	☐
d) Substantially alter the existing drainage pattern of a site or area through the alteration of the course of a stream or river, or by other means, substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	☐	☐	☒	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐
f) Otherwise substantially degrade water quality?	☐	☐	☒	☐
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☒	☐
j) Expose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

Discussion

The Project site is located within the Coyote Creek Watershed. Coyote Creek, approximate 0.35 mile to the north, is the closest waterway to the site. The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs) locate the Project site in an area of undetermined flood hazard (FEMA, 2009).

- a, f) **Less than Significant.** The Clean Water Act (CWA) has nationally regulated the discharge of pollutants to waters of the U.S. from any point source since 1972. In 1987, amendments to the CWA added section 402(p) which established a framework for

regulating non-point source stormwater discharges under the NPDES. The NPDES storm water program, implemented by the State Water Resources Control Board (SWRCB), regulates storm water discharges from construction sites that disturb one or more acres of land.

The Project site is more than one acre and, therefore, would be required to comply with the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, as amended). The District also has BMPs that apply specifically to its facilities and activities which address this issue. Construction activities such as excavation, grading, and trenching would temporarily disturb the Project area and could result in erosion if not properly controlled and repaired. Construction could also be a source of chemical contamination from use of alkaline construction materials (e.g., concrete, mortar, hydrated lime) and hazardous or toxic materials, such as fuels. Dewatering of the construction work area could be required if groundwater accumulates in an open trench or excavation area. The discharge of construction dewatering could result in a source of sediment-laden water to the local storm drain system or sanitary sewer if not properly controlled.

Construction activities associated with the Project would require land disturbing activities as described above that could increase the susceptibility of soils to erosion by water, and subsequently result in significant erosion. If uncontrolled or not managed, erosion resulting from Project construction could be significant.

The Project site is greater than 1.0 acre in size, and, therefore, is subject to the National Pollutant Discharge Elimination System (NPDES) requirements for construction. Project construction would be required to comply with the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance (Order No. 2009-0009-DWQ, as amended) which requires preparation of a Storm Water Pollution Prevention Plan (SWPPP).

In addition, the District has BMPs and VHP AMMs and Condition 3 incorporated into the Project Description (Section 2). Condition 3 listed below is applicable to all covered projects under the Habitat Plan which apply specifically to its facilities and activities which address stormwater discharge management listed as Part of the Project Description and separately below:

VHP Condition 3, Maintain Hydrologic Conditions and Protect Water Quality.

Refer to the full text in Question 6.b above.

To comply with the District's specific BMP's which apply to its facilities and activities, the SWPPP shall also include BMP WQ-5, Stabilize Construction Entrances and Exits, BMP WQ-15, Prevent Water Pollution, and BMP WQ-16, Prevent Stormwater Pollution. These BMPs provide greater specificity regarding the implementation of erosion and dust

control measures, types of controls, installation methods, timing, materials storage, limiting off-site discharge, site maintenance, etc.

With implementation of VHP Condition 3, the District would require its contractor(s) to prepare and implement a SWPPP that would reduce impacts relative to water quality standards and waste discharge requirements by requiring compliance with applicable permits for discharge of storm water runoff associated with construction and groundwater dewatering. As described in the Project Description implementation would also require the contractor(s) to comply with the District's specific BMPs WQ-4, WQ-5, WQ-11, WQ-15, and WQ-16. This would include placement of erosion control measures and general site and materials management to reduce soil loss and manage groundwater dewatering.

BMP WQ-4, Limit Impacts From Staging and Stockpiling Materials.

1. To protect on-site vegetation and water quality, staging areas should occur on access roads, surface streets, or other disturbed areas that are already compacted and only support ruderal vegetation. Similarly, all equipment and materials (e.g., road rock and project spoil) will be contained within the existing service roads, paved roads, or other pre-determined staging areas.
2. Building materials and other project-related materials, including chemicals and sediment, will not be stockpiled or stored where they could spill into water bodies or storm drains.
3. No runoff from the staging areas may be allowed to enter water ways, including the creek channel or storm drains, without being subjected to adequate filtration (e.g., vegetated buffer, swale, hay wattles or bales, silt screens).
4. The discharge of decant water to water ways from any on-site temporary sediment stockpile or storage areas is prohibited.
5. During the wet season, no stockpiled soils will remain exposed, unless surrounded by properly installed and maintained silt fencing or other means of erosion control. During the dry season; exposed, dry stockpiles will be watered, enclosed, covered, or sprayed with non-toxic soil stabilizers.

BMP WQ-5, Stabilize Construction Entrances and Exits. Measures will be implemented to minimize soil from being tracked onto streets near work sites:

1. Methods used to prevent mud from being tracked out of work sites onto roadways include installing a layer of geotextile mat, followed by a 4-inch thick layer of 1 to 3 inch diameter gravel on unsurfaced access roads.
2. Access will be provided as close to the work area as possible, using existing ramps where available and planning work site access so as to minimize disturbance to the water body bed and banks, and the surrounding land uses.

BMP WQ-11, Maintain Clean Conditions at Work Sites. The work site, areas adjacent to the work site, and access roads will be maintained in an orderly

condition, free and clear from debris and discarded materials on a daily basis. Personnel will not sweep, grade, or flush surplus materials, rubbish, debris, or dust into storm drains or waterways.

For activities that last more than one day, materials or equipment left on the site overnight will be stored as inconspicuously as possible, and will be neatly arranged. Any materials and equipment left on the site overnight will be stored to avoid erosion, leaks, or other potential impacts to water quality.

Upon completion of work, all building materials, debris, unused materials, concrete forms, and other construction-related materials will be removed from the work site.

BMP WQ-15, Prevent Water Pollution. Oily, greasy, or sediment laden substances or other material that originate from the project operations and may degrade the quality of surface water or adversely affect aquatic life, fish, or wildlife will not be allowed to enter, or be placed where they may later enter, any waterway.

The Project will not increase the turbidity of any watercourse flowing past the construction site by taking all necessary precautions to limit the increase in turbidity as follows:

1. where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases will not exceed 5 percent;
2. where natural turbidity is greater than 50 NTU, increases will not exceed 10 percent;
3. where the receiving water body is a dry creek bed or storm drain, waters in excess of 50 NTU will not be discharged from the project.

Water turbidity changes will be monitored. The discharge water measurements will be made at the point where the discharge water exits the water control system for tidal sites and 100 feet downstream of the discharge point for non-tidal sites. Natural watercourse turbidity measurements will be made in the receiving water 100 feet upstream of the discharge site. Natural watercourse turbidity measurements will be made prior to initiation of project discharges, preferably at least 2 days prior to commencement of operations.

BMP WQ-16, Prevent Stormwater Pollution. To prevent stormwater pollution, the applicable measures from the following list will be implemented:

1. Soils exposed due to project activities will be seeded and stabilized using hydroseeding, straw placement, mulching, and/or erosion control fabric. These measures will be implemented such that the site is stabilized and water quality protected prior to significant rainfall. In creeks, the channel bed and areas below the Ordinary High Water Mark are exempt from this BMP.
2. The preference for erosion control fabrics will be to consist of natural fibers; however, steeper slopes and areas that are highly erodible may require more structured erosion control methods. No non-porous fabric will be used as part of a permanent erosion control approach. Plastic sheeting may be used to

temporarily protect a slope from runoff, but only if there are no indications that special-status species would be impacted by the application.

3. Erosion control measures will be installed according to manufacturer's specifications.
4. To prevent stormwater pollution, the appropriate measures from, but not limited to, the following list will be implemented:
 - Silt Fences
 - Straw Bale Barriers
 - Brush or Rock Filters
 - Storm Drain Inlet Protection
 - Sediment Traps or Sediment Basins
 - Erosion Control Blankets and/or Mats

In addition to these BMPs, implementation of the SCVHP AMMs and Condition 3 included in the Project Description further assure the impact would be less than significant.

- b) ***Less than Significant.*** The Project would not use groundwater sources for construction or operation, and would therefore not impact groundwater supplies. The Project would create an impervious area of 21,600 square feet on the 8-acre parcel for the warehouse building and associated driveways and parking areas. However, the new impervious areas would be a small percentage of the parcel and would not substantially interfere with groundwater recharge because the majority of the site is surrounded by unpaved areas that would continue to infiltrate rainwater into the subsurface. Therefore, the Project would not lower the groundwater table as a result of groundwater extraction or cause a reduction in groundwater recharge due to impervious surfaces. The impact would be less than significant.
- c, d) ***Less than Significant.*** As described and discussed in Question 9.a above, construction of the Project would involve ground disturbance and grading, which could alter existing drainage pathways so as to make surface soils more susceptible to erosive forces (i.e., overland flow).

VHP Condition 3, Maintain Hydrologic Conditions and Protect Water Quality.

Refer to the full text in Question 6.a above.

Implementation of SWPPP would ensure that onsite management of stormwater runoff during construction would not result in the alternation of existing drainage due to sedimentation or cause any onsite flooding due to such alteration. With implementation of the SWPPP, the impact would be less than significant.

As described in the Project Description implementation would also require the contractor(s) to comply with the District's specific BMPs WQ-4, WQ-5, WQ-11, WQ-15,

and WQ-16. This would include placement of erosion control measures and general site and materials management to reduce soil loss and manage groundwater dewatering.

BMP WQ-4, Limit Impacts From Staging and Stockpiling Materials.

Refer to the full text in Question 6.a above.

BMP WQ-5, Stabilize Construction Entrances and Exits.

Refer to the full text in Question 6.a above.

BMP WQ-11, Maintain Clean Conditions at Work Sites.

Refer to the full text in Question 6.a above.

BMP WQ-15, Prevent Water Pollution.

Refer to the full text in Question 6.a above.

BMP WQ-16, Prevent Stormwater Pollution.

Refer to the full text in Question 6.a above.

With implementation of VHP AMMs and Condition 3, together with BMPs WQ-4, WQ-5, WQ-11, WQ-15, and WQ-16 built into the Project Description further assure the impact would be less than significant.

Upon completion of construction, the majority of the site would be surrounded by unpaved graveled areas that would continue to infiltrate rainwater and minimize the potential for erosion. However, through the installation of impervious surfaces, the Project would have the potential to alter the existing drainage and infiltration pattern of the Project site. Impervious surfaces have the potential to increase the rate and volume of stormwater runoff, and thereby potentially increase the potential for erosion. However, the new impervious surfaces associated with the Project would be limited in extent (see Question 9.b above).

As noted in the Utilities discussion of Section 2.4, Proposed Project, the Project would be subject to the Central Coast Regional Water Quality Control Board Resolution No. R3-2013-0032 addressing stormwater runoff. The Project would include an engineered bioretention basin designed in accordance with the Stormwater Management Guidance Manual for Low Impact Development (LID) and Post-Construction Requirements. By meeting the design requirements of the Guidance, in addition to the fact that most of the site would remain previous, the Project is not expected to add significantly to the volume of runoff currently leaving the site. Therefore, the Project would not substantially alter drainage patterns and would not cause downstream erosion, siltation, or flooding. Therefore, the impact attributable to the Project's presence would be less than significant.

- e) **Less than Significant.** As discussed in Questions 9.a, 9.c, and 9.d above, construction and operation of the Project would not result in any substantial changes to on-site volume of stormwater runoff.

As noted in the Utilities discussion of Section 2.4, Proposed Project, the Project would be subject to the Central Coast Regional Water Quality Control Board Resolution No. R3-2013-0032 addressing stormwater runoff. The Project would include an engineered bioretention basin designed in accordance with the Stormwater Management Guidance Manual for Low Impact Development (LID) and Post-Construction Requirements. By meeting the design requirements of the Guidance, in addition to the fact that most of the site would remain previous, the Project is not expected to add significantly to the volume of runoff currently leaving the site. Therefore, the Project would not substantially alter drainage patterns and would not cause downstream erosion, siltation, or flooding. Therefore, the impact attributable to the Project's presence would be less than significant.

- g, h) **No Impact.** The Project site is within the vicinity of Coyote Creek. The Project site is within Zone D, which is an area where flooding hazards are undermined, but possible. However, no part of the Project site is within the FEMA 100-year flood hazard zone (FEMA, 2009). Therefore, the Project would not place housing, other residential units, or other structures within a 100-year flood hazard area that would result in impeding or redirecting flood flows. No impact would occur.

- i) **Less than Significant.** The Anderson Dam is located about 0.4 mile east of the project site. In the event of a catastrophic dam failure, the flood inundation maps estimate that the maximum flood depth at the Project site could be as much as 19.4 feet under fair weather conditions (SCVWD, 2009). These flood inundation maps also indicate that the peak flood depth would not arrive until about 2 hours after the dam failure.

The Project would not affect existing levees, dams, or other flood control mechanisms, nor would it affect the potential for significant risk of loss, injury, or death resulting from flooding. The Project would not include work that could jeopardize the function or safety of existing dams, levees, or other flood control devices.

Since the Project would not impact an existing dam or other flood control mechanism, workers would only be exposed to a significant risk involving flooding in the event of an actual dam failure, whether it occurs during Project construction or operation. The Project is not expected to require full time staffing; therefore, the Project site would not be consistently inhabited. In the event of a dam failure, the inundation zone widens before the Project site, thereby reducing the depth of the water and the resulting potential for damage or injury. Again, the flood inundation maps also indicate that the peak flood depth would not arrive until about 2 hours after the dam failure, providing sufficient time for workers at the Project site to evacuate the area. Therefore, the impact would be less than significant.

- j) **No Impact.** The Project site is not located within the tidal zones of the Pacific Ocean or the San Francisco Bay. According to the California Department of Conservation's Santa Clara County Tsunami Inundation Map (2016), the Project site is not subject to tsunami inundation. Seiches are large waves on an enclosed or semi-enclosed body of water that can be caused by seismic activity. Geologic-induced seiche events have not been documented in the San Francisco Bay region, including any interior waterbodies in Santa Clara County. The proposed project site is relatively flat and not subject to mudflows. Therefore, there would be no impact related to seiche, tsunamis and/or mudflows.

References

- California Department of Conservation (CDC), 2016. Santa Clara County Tsunami Inundation Map. Available online at: http://www.conservation.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/SantaClara. Accessed January 20, 2016.
- Federal Emergency Management Agency (FEMA), 2009. Flood Insurance Rate Map, Panel 442 of 830. Effective date May 18, 2009.
- National Resources Conservation Service (NRCS), 2016. Web Soil Survey, Soil Map and Shrink Swell Map, April 29, 2016.
- Santa Clara Valley Water District, 2009. *Anderson Dam EAP 2009 Flood Inundation Maps*, June 2009.

3.2.10 Land Use and Land Use Planning

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
10. LAND USE AND LAND USE PLANNING — Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

Discussion

- a) **No Impact.** The physical division of an established community typically refers to the construction of a physical feature (such as an interstate highway or railroad tracks) or removal of a means of access (such as a local road or bridge) that would impair mobility within an existing community, or between a community and outlying areas. The Project would construct a warehouse on a site that is currently used for the storage of buried pipelines and for the stockpiling materials. The Project would not physical divide an established community. Therefore, no impact would occur.
- b) **No Impact.** Land use at the Project site is governed by the Morgan Hill General Plan (2001), which designates the Project site for Public Facilities. This General Plan designation applies to 253 acres of land within the City of Morgan Hill that are comprised of land used by the City, service providers, and the Morgan Hill Unified School District. This zoning designation is a noncommercial use established for the benefit and enjoyment of the community, including library, school, museum, recreation center, water well, reservoir and similar facilities (City of Morgan Hill, 2015). The Project would not conflict with land use designations/zoning or current uses. This site is not located within the California coastal zone, nor is it subject to a local coastal program. Therefore, the Project would be compatible with applicable land use plans, policies, and regulations, and no impact would occur.
- c) **No Impact.** As discussed in Section 3.2.4, Biological Resources Question 4.f, the Project site is within the planning area of the Santa Clara Valley Habitat Plan (SCVHP). As stated in that analysis, the Project would comply with all applicable SCVHP requirements and conditions and would not conflict with this plan. Thus, no impact relating to conflict with an applicable habitat conservation plan or natural community conservation plan would occur.

References

City of Morgan Hill, 2016. *2035 General Plan*. Adopted July 27, 2016.

City of Morgan Hill, 2015. Morgan Hill Municipal Code Title 18 – Zoning, August 5, 2015.

3.2.11 Mineral Resources

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
11. MINERAL RESOURCES — Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Discussion

- a, b) **No Impact.** The Project site is located in an area classified as MRZ-1, with no known significant mineral deposits present (Kohler-Antablin, 1999). In addition, there are no mines, mineral processing plants, oil, gas, or geothermal wells located at the Project site (USGS, 2003; CDC, 2015). The Project activities would not involve mining. Therefore, the Project would not alter, destroy, or limit access to any existing significant mineral resources. No impact would occur.

References

- California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (CDC), 2015. *DOGGR Online Mapping System*. Accessed December 22, 2015.
- Kohler-Antablin, S., 1999. Generalized Mineral Land Classification Map of the Monterey Bay Production-Consumption Regions, North Half, 1999.
- United States Geological Survey (USGS), 2003. Active Mines and Mineral Plants in the U.S. 2003. Available online at: <http://mrdata.usgs.gov/mineral-resources/active-mines.html>. Accessed December 22, 2015.

3.2.12 Noise

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
12. NOISE — Would the project:				
a) Result in exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b) Result in exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
e) For a project located within an airport land use plan area, or, where such a plan has not been adopted, in an area within two miles of a public airport or public use airport, would the project expose people residing or working in the area to excessive noise levels?	☐	☐	☐	☒
f) For a project located in the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Discussion

Sound is mechanical energy transmitted by pressure waves through a medium such as air. Noise is defined as unwanted sound. Sound is characterized by various parameters that include the rate of oscillation of sound waves (frequency), the speed of propagation, and the pressure level or energy content (amplitude). Sound pressure level is measured in decibels (dB), with zero dB corresponding roughly to the threshold of human hearing, and 120 to 140 dB corresponding to the threshold of pain. Typically, sound does not consist of a single frequency, but rather a broad band of frequencies varying in levels of magnitude. Given that the typical human ear is not equally sensitive to all frequencies of the audible sound spectrum, when assessing potential noise impacts, sound is measured using an electronic filter that de-emphasizes low and extremely high frequencies, referred to as A-weighting, and is expressed in units of A-weighted decibels (dBA).⁸

Noise Exposure and Environment

Noise levels rarely persist consistently over a long period of time. Rather, noise levels at any one location vary with time. Specifically, community noise is the result of many distant noise sources that constitute a relatively stable background noise exposure where the individual contributors are unidentifiable. Throughout the day, short duration single-event noise sources (e.g., aircraft flyovers, motor vehicles, sirens) that are readily identifiable to the individual add to the existing

⁸ All noise levels reported herein reflect A-weighted decibels unless otherwise stated.

background noise level. The combination of the slowly changing background noise and the single-event noise events give rise to a constantly changing community noise environment.

To legitimately characterize a community noise environment and evaluate cumulative noise impacts, community noise levels must be measured over an extended period of time. This time-varying characteristic of environmental noise is described using statistical noises descriptors, including the ones described below, which are discussed in this analysis:

- L_{eq}:** The equivalent sound level is used to describe noise over a specified period of time, typically one hour, in terms of a single numerical value. The L_{eq} is the constant sound level that would contain the same acoustic energy as the varying sound level, during the same time period (i.e., the average noise exposure level for the given time period).
- L_{max}:** The instantaneous maximum noise level measured during the measurement period of interest.
- L_{dn}:** The day-night average sound level (L_{dn}) is the energy average of the A-weighted sound levels occurring during a 24-hour period, accounting for the greater sensitivity of most people to nighttime noise by weighting (“penalizing”) nighttime noise levels by adding 10 dBA to noise between 10:00 p.m. and 7:00 a.m.

In general, the more a new noise exceeds the previously existing ambient noise level, the less acceptable the new noise would be judged by those hearing it. With regard to increases in A-weighted noise level, the following relationships occur:

- except in carefully controlled laboratory experiments, a change of 1 dBA cannot be perceived;
- outside of the laboratory, a 3-dBA change is considered a just-perceivable difference;
- a change in level of at least 5 dBA is required before any noticeable change in human response would be expected; and
- a 10-dBA change is subjectively heard as approximately a doubling in loudness and may be perceived as undesirable or objectionable to some listeners.

These relationships occur in part because of the logarithmic nature of the decibel system. Because the decibel scale is based on logarithms, two noise sources do not combine in a simple additive fashion, but rather do so logarithmically using “decibel addition” (FTA, 2006). For example, if two identical noise sources produce noise levels of 50 dBA, the combined sound level would be 53 dBA, not 100 dBA.

Morgan Hill Noise Ordinances

The City of Morgan Hill Noise Ordinance 18.24.110 states that noise levels emanating from commercial uses when they abut residential property may not exceed 60 dBA at the property perimeter. Should the commercial use be active after 10 p.m., noise levels shall not exceed 45 dBA as measured at the property boundary. Regarding construction noises, Ordinance 8.28.040 states that construction activities are only permitted between the hours of 7 a.m. and

8 p.m. Monday through Friday and between the hours of 9 a.m. to 6 p.m. on Saturday and may not occur on Sundays or federal holidays (Morgan Hill, 2016).

Morgan Hill General Plan

The City of Morgan Hill 2035 General Plan Exterior Noise Level Standards (Noise Policy SSI-8.1) state that the normally acceptable interior noise level for residential uses is 45 dBA L_{dn} . The City's standards for exterior noise levels are 60 dBA L_{dn} in single-family residential use areas and multi-family recreation areas, and 65 dBA L_{dn} may be permitted where the City determines that providing an L_{dn} of 60 dBA or lower cannot be achieved after the application of reasonable and feasible mitigation (Morgan Hill, 2016).

Sensitive Receptors

People in residences, schools, libraries, churches, hospitals, nursing homes, and auditoriums are generally more sensitive to noise than those at commercial and industrial establishments. In general, residences and schools are among the land uses considered to be the most sensitive to noise. Active parks, recreation centers, and playgrounds are not as sensitive to noise because the levels of background noise at parks and recreation centers with active recreational uses and school playgrounds are elevated. However, users of natural recreation areas may value an increased degree of quiet for passive recreational uses. Sensitive receptors in the vicinity of the Project include residences, some of which are located as close as 115 feet to the project site along Altimira Circle as seen in Figure 2-1.

Project Noise Levels

Long-term operation of the project would not be expected to result in an increase in ambient noise levels as operations at the site would not change substantially since the proposed project site would continue to serve as a storage area for the existing pumping plant. However, construction activities, which would occur over a maximum duration of 14 months, would be expected to generate noise levels that would increase ambient noise levels at land uses in the vicinity of the project site. Construction noise levels at the project site would be intermittent, and would fluctuate depending on the particular type, number, and duration of use of various pieces of heavy on-site construction equipment. The hauling of excavated material and construction materials would also generate noise off-site from truck trips on local and regional roadways.

Table 3-5 includes the types of heavy equipment that would be utilized during construction and the typical noise levels associated with operation of the equipment at 50 feet. Large pieces of earth-moving equipment, such as excavators and dozers generate noise levels in the low 80 dBA range at a distance of 50 feet (FHWA, 2006). As indicated in the table, the loudest piece of construction equipment would be the concrete saw, at 90 dBA (FHWA, 2006). The worst case maximum noise level scenario would be the concrete saw that may also operate with three excavators and two rubber tired dozers during the demolition subphase. This may result in a combined temporary maximum noise level of approximately 92 dBA at 50 feet (FHWA, 2006). However, the location of actual demolition activities would be located at least 115 feet from the

nearest receptors resulting in a maximum noise level of 87 dBA due to noise attenuation from ground absorption in a soft scape environment (Caltrans, 1998).

**TABLE 3-5
TYPICAL NOISE LEVELS FROM PROJECT CONSTRUCTION EQUIPMENT**

Construction Equipment	Noise Level ^a (dBA, L _{max} at 50 Feet)
Paver	77
Roller	80
Generator	81
Forklift	75
Backhoe	78
Loader	79
Tractor	84
Concrete Saw	90
Dozer	82
Excavator	81
Crane	81
Dump Truck/Flat Bed Truck	76
Welder	74
Generator	82

NOTES:
dBA = A-weighted decibels, L_{max} = maximum noise exposure level for the given time.
^a Represents actual measured noise, if provided. Otherwise, modeled noise value was used.
SOURCE: FHWA, 2006

- a) **Less than Significant.** As shown in Table 3-5 and discussed above, the proposed project would require operation of several pieces of heavy duty construction equipment to construct the warehouse. As described above, some equipment would operate simultaneously, thus resulting in higher maximum noise levels potentially as high as 87 dBA at 115 feet from the nearest receptors (Caltrans, 1998). However, construction of the proposed project would comply with the City's Noise Ordinance and would only take place between the hours of 7 a.m. and 8 p.m. Monday through Friday, between the hours of 9 a.m. to 6 p.m. on Saturday, and would not occur on Sundays or federal holidays. The City's Noise Ordinance does not identify construction noise level limits, and the City's general plan noise standards are not applicable to short-term construction activities. The project would introduce virtually no new operational noise sources at the site. Thus, the exposure of persons and/or generation of noise levels in excess of standards established in the local general plan or noise ordinance with respect to this impact from construction and operation of the project would be less than significant.

- b) **Less than Significant.** The peak particle velocity (PPV) is defined as the maximum instantaneous peak of the vibration signal and is typically expressed in units of inches per second (in/sec). Temporary sources of groundborne vibration and noise during construction would result from operation of conventional heavy construction equipment such as dozers and loaded haul trucks. These pieces of equipment can generate vibration levels of up to 0.09 in/sec at a distance of 25 feet.

The PPV threshold of 0.20 in/sec identified by Caltrans (2004) is used in this analysis to determine the significance of vibration impacts related to adverse human reaction, and the Federal Transit Administration (FTA) PPV threshold of 0.12 in/sec for buildings extremely susceptible to vibration damage is used to determine the significance of vibration impacts related to risk of architectural damage to buildings (FTA, 2006). Vibration levels at the closest residence locations would be well below these PPV thresholds. These groundborne vibration levels would not have the potential to cause structural damage to nearby buildings and would not be perceptible at residences or other sensitive uses in the immediate vicinity of construction activities. The impact would be less than significant.

Groundborne noise is the rumbling sound of structure surfaces caused by high vibration levels. Because construction of the project would not result in exposure of persons to or generation of excessive groundborne vibration, it also would not expose them to or generate excessive groundborne noise levels. Consequently, there would be no groundborne noise-related impact associated with construction of the proposed project.

- c) **No Impact.** As discussed in the Project Description, the proposed project would result in construction of a warehouse to store equipment and supplies. Once the warehouse is constructed, the operation would be similar to the existing operation and would not introduce any substantial permanent increase in ambient noise.
- d) **Less than Significant.** As described under discussion a), project construction would result in temporary increases to ambient noise levels associated with operation of heavy duty construction equipment that would generate maximum construction-related noise levels at the closest sensitive receptor locations to the project site of 87 dBA L_{max} . Although there are no applicable local policies or standards available to judge the significance of short-term daytime construction noise levels in the City of Morgan Hill, for purpose of this analysis, the District is utilizing the FTA's construction noise assessment criteria which has identified a daytime hourly L_{eq} level of 90 dBA as a noise level where adverse community reaction could occur (FTA, 2006), to assess whether daytime construction-related noise levels would cause a substantial temporary or periodic increase in ambient noise levels at sensitive locations. Since construction of the loudest subphase of the project would be less than the FTA threshold, the project would not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. Therefore, the impact would be less than significant.

- e) **No Impact.** The project is not located within an airport land use plan or within 2.0 miles of a public airport; therefore there would be no airport-related impact associated with the proposed project.
- f) **No Impact.** The project is not located within the vicinity of a private airstrip, therefore there would be no private airstrip-related impact associated with the proposed project.

References

- Federal Highway Administration (FHWA), 2006. *Construction Noise Model User's Guide*, adopted January 2006. Available: www.fhwa.dot.gov/environment/noise/construction_noise/rcnm/rcnm.pdf. Accessed April 8, 2016.
- Federal Transit Administration (FTA), 2006. *Transit Noise and Vibration Impact Assessment*, adopted May 2006. Available: <https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/fta-noise-and-vibration-impact-assessment>. Accessed May 13, 2016.
- California Department of Transportation (Caltrans), 1998. *Technical Noise Supplement*, adopted October 1998. Available: [www.dot.ca.gov/hq/env/noise/pub/Technical Noise Supplement.pdf](http://www.dot.ca.gov/hq/env/noise/pub/Technical%20Noise%20Supplement.pdf). Accessed May 17, 2016.
- Caltrans, 2004. Noise, Vibration, and Hazardous Waste Management Office, 2004, *Transportation- and Construction-Induced Vibration Guidance Manual*, June 2004.
- City of Morgan Hill, 2016. *2035 General Plan, Chapter 9, Safety, Services, and Infrastructure*, Adopted July 27, 2016. Available: [<http://www.morganhill.ca.gov/75/General-Plan>]. Accessed January 20, 2017.
- City of Morgan Hill, 2016. *Municipal Code - Chapter 8.28 - Noise*, Available at: <https://www.municode.com>. Accessed on April 6, 2016.

3.2.13 Population and Housing

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
13. POPULATION AND HOUSING — Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing housing units, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Discussion

- a) **No Impact.** In general, a project would be considered growth-inducing if its implementation would result in substantial population increases and/or new development that might not occur if the project were not implemented. The Project does not propose the development of new housing, nor would it indirectly induce growth by establishing substantial permanent employment opportunities that could stimulate population growth. The Project is not expected to provide employment opportunities beyond what would normally be available to construction workers in the area. Approximately 15 workers are expected to participate in construction activities, the majority of which would come from the local or regional labor pool and not require relocation. In operation, the Project would supplement the existing functions of the District and is not intended to house or generate additional employees. Compared to the estimated 2014 population of 42,068 in the City of Morgan Hill, any temporary increase in population is insignificant (United States Census Bureau, 2016). In addition, the Project also does not propose extension of roads or other infrastructure to serve areas intended to be populated in the future. Therefore, no impact would occur.
- b, c) **No Impact.** The Project is on undeveloped land that is designated for Public Facilities in the City's General Plan and zoning ordinance. It is intended to provide a storage area for the District; it does not involve demolition of existing housing or otherwise require the construction of homes elsewhere. The Project would not displace any existing housing or people. Therefore, no impact would occur.

References

United States Census Bureau, 2016. *Morgan Hill City California QuickFacts from the US Census Bureau*. Available online at: <http://www.census.gov/quickfacts/table/PST045215/0649278,00>. Accessed April 13, 2016.

3.2.14 Public Services

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
14. PUBLIC SERVICES — Would the project:				
a) Result in substantial adverse physical impacts associated with the provision of, or the need for, new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:				
i) Fire protection?	☐	☐	☐	☒
ii) Police protection?	☐	☐	☐	☒
iii) Schools?	☐	☐	☐	☒
iv) Parks?	☐	☐	☐	☒
v) Other public facilities?	☐	☐	☐	☒

Discussion

As noted in Section 3.2.13, Question 13.a, the Project is not expected to provide employment opportunities beyond what would normally be available to construction workers in the area. Approximately 15 workers are expected to participate in construction activities, the majority of which would come from the local or regional labor pool and not require relocation. In operation, the Project would supplement the existing functions of the District and is not intended to house or generate additional employees. This information is provided as a basis for the following analysis of Public Services.

- a.i) **No Impact.** The City of Morgan Hill contracts with the CAL FIRE to provide the following services: Emergency Medical Services, Fire Prevention, and Fire Suppression. CAL FIRE operates a fire station within the Morgan Hill city limits at the following location: California Department of Forestry and Fire Protection at 15670 Monterey Street (City of Morgan Hill, 2015a). The Morgan Hill Fire Department has two fire stations in Morgan Hill: the El Toro Fire Station located at 18300 Old Monterey Road and Dunne Hill Fire Station located at 2100 East Dunne Avenue. The Dunne Hill Fire Station is the nearest fire station to the Project site, which is approximately 1.8 miles southeast of the Project site.

The Project would involve short-term construction activities and the operations would be similar to the existing practices. (The Project's potential effects as it regards wildfires in addressed above in Section 3.2.8, Question 8.h.) As part of the Project, two fire hydrants would be installed on the site near the warehouse structure. The warehouse would also be equipped with an internal fire suppression system (i.e., sprinklers), as required by fire and buildings codes. These would enhance on-site fire protection and suppression capabilities.

- Furthermore, the Project would not result in an increase in population (i.e., new housing) or facilities that would increase in demand for fire protection services nor would it affect service ratios (see above). Existing fire protection services would be adequate to provide services to the Project if needed. Therefore, no impact would occur.
- a.ii) **No Impact.** The City of Morgan Hill Police Department provides police services for the City of Morgan Hill and is located at 16200 Vineyard Boulevard in Morgan Hill, approximately 2.7 miles south of the Project site (City of Morgan Hill, 2015b). The Project would not result in a permanent increase in population or facilities that would increase in demand for police services nor would it affect service ratios (see above). There would be no impact.
- a.iii) **No Impact.** The Project area is served by the Morgan Hill Unified School District, which extends from south San Jose through San Martin. It includes all of Morgan Hill, portions of San Jose, and unincorporated areas including Coyote and San Martin. Governed by policy decisions of a locally-elected, seven-member Board of Education, the District operates ten elementary schools, two middle schools, one comprehensive high school, one continuation high school, a Community Adult School, a District central office, and a corporation yard. Within Morgan Hill, there are also private schools for elementary aged children, including Carden Academy, Morgan Hill Country School, Montessori Learning for Living, St. Catherine's Catholic, and South Valley Christian (City of Morgan Hill, 2001). There are no schools within 0.25 mile of the Project site (Morgan Hill Unified School District, 2015). The Project would not result in an increase in population or housing and, therefore, would not generate an increase in students or demand on local school facilities (see above). No impact would occur.
- a.iv) **No Impact.** The Park Maintenance Division of the Community Services Department works to maintain city parks, the Civic Center, and other city facilities (City of Morgan Hill, 2015c). The Parks and Recreation Commission is a 7-member board that advises the City Council on matters pertaining to planning and development of parks, cultural facilities, recreation programs for all segments, bicycle facilities, and capital expenditures related to said facilities (City of Morgan Hill, 2015d). The proposed project would not disrupt any park-related activities or access and would not result in an increase of construction or District employees (see above). Therefore, it would not result in an increase in the use of existing park and recreation facilities. No impact would occur.
- a.v) **No Impact.** As stated in the introduction to this analysis of Public Services, the Project would not result in substantial short-term increases in the local population during construction. The Project would not result in any permanent increase in local population, as well. Therefore, no increase in the use of local recreational or other public facilities is anticipated, nor would there be any need for other public facilities. There would be no impact.

References

- City of Morgan Hill, 2001. *Morgan Hill General Plan*. Adopted 2001. Revised February 2010.
- City of Morgan Hill, 2012a. *City of Morgan Hill General Plan Land Use Diagram*. February 29, 2012. Available online at: <http://www.morgan-hill.ca.gov/DocumentView.asp?DID=325>. Accessed December 21, 2015.
- City of Morgan Hill, 2012b. *City of Morgan Hill Zoning Map*. February 29, 2012. Available online at: <http://www.morgan-hill.ca.gov/76/Zoning>. Accessed December 21, 2015.
- City of Morgan Hill, 2015a. *Fire Department*. Available online at: <http://www.morgan-hill.ca.gov/445/Fire-Department>. Accessed December 21, 2015.
- City of Morgan Hill, 2015b. *Police*. Available online at: <http://www.morgan-hill.ca.gov/129/Police>. Accessed December 21, 2015.
- City of Morgan Hill, 2015c. *Community Services Department*. Available online at: <http://www.morgan-hill.ca.gov/1058/Community-Services>. Accessed December 22, 2015.
- City of Morgan Hill, 2015d. *Parks and Recreation Commission*. Available online at: <http://www.morgan-hill.ca.gov/568/Parks-Recreation-Commission>. Accessed December 22, 2015.
- Morgan Hill Unified School District, 2015. *Schools*. Available online at: <http://mhusd.org/schools/>. Accessed December 21, 2015.
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3.2.15 Recreation

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
15. RECREATION — Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated?	☐	☐	☐	☒
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☒

Discussion

- a) **No Impact.** Anderson Lake County Park, located approximately 0.4 mile north of the Project site is approximately 3,144 acres in size and features Santa Clara County's largest reservoir. Recreational activities at Anderson Lake County Park include boating, bicycling, horseback riding, picnicking, fishing, and hiking (Santa Clara County, 2016).

Anderson Lake County Park is also the southern terminus of the Coyote Creek Parkway. It is a paved 18-mile creekside trail, popular for hiking, running, cycling, and skating with its northern terminus located in San Jose. The trail corridor features parks, picnic tables, benches, rest areas, and views of waterway, urban, and rural settings (City of San Jose, 2016).

There are also several unnamed community parks and trails near the Project site, within the nearby residential subdivision. A tennis court and picnic area lies just northeast of the Project site as well.

The Project would construct a warehouse on a District-owned site that is currently used for storage of materials and would not include a residential component. As noted in Section 3.2.13, Question 13.a, the Project is not expected to provide employment opportunities beyond what would normally be available to construction workers in the area. Approximately 15 workers are expected to participate in construction activities, the majority of which would come from the local or regional labor pool and not require relocation. In operation, the Project would supplement the existing functions of the District and is not intended to house or generate additional employees. As such, the Project would not increase population in the area, increase the use of existing recreational facilities, nor require construction of new recreation facilities. In addition, the Project activities would not affect the public's use of existing recreational facilities or disrupt access to recreational facilities including the nearby trails and parks. Therefore, the Project would have no impact to recreational resources.

- b) **No Impact.** The Project would not include construction or expansion of new recreational facilities; no impact would occur.

References

City of San Jose, 2016. Coyote Creek. Available online at: <http://www.sanjoseca.gov/?nid=2821>. Accessed on February 1, 2016.

Santa Clara County, 2016. Anderson Lake County Park. Available online at: <https://www.sccgov.org/sites/parks/parkfinder/Pages/AndersonLake.aspx>. Accessed on February 1, 2016.

3.2.16 Transportation and Traffic

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
16. TRANSPORTATION AND TRAFFIC — Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☒	☐
b) Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location, that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☒	☐
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒

Discussion

- a) **Less than Significant.** Regional access to the Project site is provided by Highway 101, which runs north-south. According to the latest data available from Caltrans, the average daily traffic (ADT) volume on Highway 101 in the Project area is approximately 136,000 vehicles and the peak hour ADT is approximately 11,500 (CalTrans, 2015).

Local access to the Project site is provided by Cochrane Road and Peet Road. According to traffic counts conducted in April and May 2010, Cochrane Road has an ADT of approximately 7,400 and Peet Road has an ADT of approximately 600.⁹ Transit services within Morgan Hill are provided by Santa Clara Valley Transportation Authority (VTA), which is a special-purpose district responsible for public transit services, congestion management, specific highway improvement projects, and countywide transportation planning for Santa Clara County (Santa Clara Valley Transportation Authority, 2015).

The construction assumptions related to phase length, trips, number of workers and equipment usage are based on construction surveys and research performed primarily by

⁹ City of Morgan Hill Public Works Department: <http://www.morgan-hill.ca.gov/DocumentCenter/View/5616>, accessed on July 7, 2016.

the South Coast Air Quality Management District and endorsed by the other California air districts, and incorporated into California Emissions Estimator Model version 2013.2.2. As noted in Chapter 2, Project Description, the Project – once in operation – is not anticipated to contribute permanent additional trips to the local roadway network. Therefore, since the only additional Project-related trips would stem from temporary construction activities [over a 14-month period], the Project's effects to operational levels-of-service on affected roadways were not evaluated.

Based on construction staging information provided in the Project Description, the construction phase during which the highest amount of construction-related traffic would occur would be the Building Construction phase. During this phase, an average of approximately 56 hauling round-trips would be made for soil export, 32 worker round-trips for building construction and 12 vendor round-trips for delivery of construction materials on a daily basis. Hauling trips and vendor trips would be made by large trucks, which utilize more roadway capacity than passenger vehicles due to their larger size, slower startup times, and reduced maneuverability. To account for the increase in roadway capacity utilized by construction trucks, a Passenger Car Equivalent (PCE) factor of 2.0 was used.¹⁰ Carpooling among construction workers has not been assumed.

Taking into account these assumptions, construction of the Project would result in the addition of a maximum of approximately 59 daily vehicles to area roadways. It is anticipated that these vehicles would access the Project site using Highway 101, Cochrane Road, and Peet Road. Based on 2010 ADT volumes on these two local roadways and 2014 ADT volumes on Highway 101 stated above, the addition of 59 daily vehicles is not expected to noticeably affect roadway operations. Even if all 59 vehicles were to access the project site during the peak hour of traffic on Highway 101, which is highly unlikely, that would only represent 0.5 percent of the existing (2014) volume. On Cochrane Road and Peet Road, the addition of Project-generated construction traffic would represent a 0.8 percent and 9.9 percent increase, respectively. Although the contribution to the ADT on Peet Road is relatively high, it should be noted that existing ADT is very low on this roadway (i.e., approximately 600 ADT) with the capacity to accommodate up to 1,600 vehicles per hour in each travel direction.

Based on the existing roadway volumes and capacities with the contribution of 59 temporary Project-generated construction trips on a daily basis over a 14-month period, as described above, the addition of Project-generated construction traffic is not expected to cause any change to roadway operations on Highway 101, Cochrane Road, or Peet Road or change their effectiveness in accommodating traffic. Therefore, construction of the Project would result in a less-than-significant impact on the performance of nearby transportation facilities.

¹⁰ The *Highway Capacity Manual* (Transportation Research Board, 2010) adjustments for heavy vehicles and the *San Bernardino/Riverside County Warehouse/Distribution Center Vehicle Trip Generation Study* (NAIOP, January 2005) were used to determine the PCE factor.

- b) **No Impact.** Santa Clara County has an established Congestion Management Program (CMP), administered by VTA. Based on the most recent Monitoring and Conformance Report (VTA, 2014), no intersections or freeway segments in the Project vicinity have been identified for CMP monitoring in Morgan Hill. Therefore, the Project would not result in any impacts to the performance of CMP facilities.
- c) **No Impact.** The nearest public use airport to the Project site is the South County Airport, also known as the San Martin Airport, located approximately 5.5 miles to the south. The Project site does not lie within any height restriction areas or airport safety zones as defined in the South County Airport Comprehensive Land Use Plan (Santa Clara County Airport Land Use Commission 2016). Therefore, the Project would not require a change in air traffic patterns, levels, or location that would result in safety risks. No impact would occur.
- d) **No Impact.** Neither Project construction nor operation would alter the physical configuration of the existing roadway network serving the area and would not introduce unsafe design features. The Project also would not introduce types or volumes of vehicles that would be incompatible with those already served by the area road system. Therefore, the Project would not result in an increase of hazards due to design feature or incompatible uses; no impact would occur.
- e) **Less than Significant.** As described in Question 16.a above, increased Project-related traffic would not cause a significant increase in traffic volume on area roadways. The Project would not require closure of public roads, which could limit access by emergency vehicles. During construction of the Project, heavy slow-moving construction-related vehicles or equipment could interfere with emergency response to the site or evacuation procedures in the event of an emergency. However, any construction vehicles would be required by law to yield to emergency response vehicles (i.e., with sirens and/or flashing lights). Additionally, the presence of these vehicles would occur over a limited amount of time and actually be on the roadways for relatively brief periods. Per the requirements of the Morgan Hill Fire Department, the Project's access roads would be paved and a truck turn-around installed at the building's eastern access. The gate in the site's north fence would be replaced and available for emergency access to Espana Way, if needed. For those reasons, Project would have a less than significant impact on emergency access.
- f) **No Impact.** Implementation of the Project would neither directly nor indirectly eliminate existing or planned alternative transportation corridors or facilities (e.g., bike paths, lanes, etc.), including changes in policies or programs that support alternative transportation, nor construct facilities in locations which future alternative transportation facilities are planned. The Project would not conflict with adopted policies, plans and programs supporting alternative transportation. There would be no impact.

References

California Department of Transportation (Caltrans), 2015. *2014 Traffic Volumes on California State Highways*. Available online at: 2014_aadt_volumes.pdf. Accessed December 21, 2015.

Santa Clara Valley Transportation Authority (VTA), 2015. *About VTA*. Available online at: <http://www.vta.org/about-us/inside-vta/about-vta>. Accessed December 21, 2015.

Santa Clara VTA, 2009. *Transportation Impact Analysis Guidelines*. Available online at: <http://www.vta.org/cmp/tia-guidelines>. Accessed January 23, 2017.

City of Morgan Hill, 2016. *Morgan Hill 2035 General Plan – Circulation Element*. Available online at: <http://www.morgan-hill.ca.gov/75/General-Plan>. Accessed January 23, 2017.

3.2.17 Tribal Cultural Resources

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
17. TRIBAL CULTURAL RESOURCES —				
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
Would the project:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	☐	☐	☐	☒
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒

Discussion

- a, b) **No Impact.** Effective July 2015, Assembly Bill (AB52) requires (1) a lead agency to provide notice to any California Native American tribes that have requested notice of projects proposed by the lead agency, and (2) if a tribe requests consultation within 30 days upon receipt of the notice, the lead agency must consult with the tribe. As of this time, the District has not received written requests from any California Native American Tribes to receive such notifications.

CEQA Section 21074.2 requires the lead agency to consider the effects of a project on tribal cultural resources. As defined in Section 21074, tribal cultural resources are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are listed, or determined to be eligible for listing, on a national, state, or local register of historical resources.

ESA submitted a Sacred Lands File search request to the Native American Heritage Commission (NAHC) on January 28, 2016. ESA also contacted Native American tribes and individuals from the Santa Clara County area to request comment on the Project and Project vicinity. ESA received a response from the NAHC on February 12, 2016, stating that a search of the Sacred Lands File provided negative results. Additional responses will be forwarded to the District for consideration and further consultation as requested.

Based on the response from the NAHC, as well as the background research at the Northwest Information Center and the surface survey described above in Section 3.2.5, there are no tribal cultural resources in the Project site. The Project would have no impact to tribal cultural resources and no mitigation measures would be necessary.

3.2.18 Utilities and Service Systems

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
17. UTILITIES AND SERVICE SYSTEMS — Would the project:				
a) Conflict with wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c) Require or result in the construction of new storm water drainage facilities, or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider that would serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒

Discussion

- a) **No Impact.** The Project would not exceed any wastewater treatment requirements of the Regional Water Quality Control Board. During construction, portable toilets would be provided for crews. Construction activities would be temporary, lasting up to 14 months, and peak construction would employ 15 workers per day. Accordingly, wastewater generated during construction would be limited and handled by a licensed provider in accordance with all applicable requirements. Because the Project would not result in additional staffing at the proposed warehouse after construction is completed, no additional wastewater would be generated during operation or maintenance of the Project. Accordingly, the Project would have no impact with respect to exceeding applicable wastewater treatment requirements.
- b) **No Impact.** The Project would include two fire hydrants and a fire suppression system (i.e., sprinklers) in the warehouse. These Project features would connect to existing water supply at the Project site. The Project would not include restroom or other facilities that would require connection to the local potable water or sanitary sewer conveyance and treatment system.

The Project would not require or result in the construction of new water treatment facilities or the expansion of existing water treatment facilities. Therefore, the warehouse would cause no impact related to the construction or expansion of water or wastewater treatment facilities.

- c) **No Impact.** As noted in Section 3.2.9 Hydrology and Water Quality, Question 9.c and 9.d, upon completion of construction, the majority of the site would be surrounded by unpaved graveled areas that would continue to infiltrate rainwater and minimize the potential for erosion. However, through the installation of impervious surfaces (i.e., warehouse, paved access roads), the Project would have the potential to alter the existing drainage and infiltration pattern of the Project site. As noted in the Utilities discussion of Section 2.4, Proposed Project, the Project would be subject to the Central Coast Regional Water Quality Control Board Resolution No. R3-2013-0032 addressing stormwater runoff. The Project would include an engineered bio-infiltration feature designed in accordance with the Stormwater Management Guidance Manual for Low Impact Development (LID) and Post-Construction Requirements. By meeting the design requirements of the Guidance, in addition to the fact that most of the site would remain pervious, the Project is not expected to add significantly to the volume of runoff currently leaving the site. Therefore, the Project would not substantially alter drainage patterns which would require the construction of new stormwater drainage facilities or expansion of existing facilities elsewhere offsite. Therefore, the Project would have no impact to stormwater drainage facilities.
- d) **No Impact.** The Project would include two fire hydrants and a fire suppression system (i.e., sprinklers) in the warehouse. These Project features would connect to existing water supply at the Project site and be used infrequently (i.e., in case of emergency, system tests). The Project would not include restroom or other facilities that would require connection to the local potable water supply. Therefore, it would not require a new or increased supply of water that would, in turn require new and expanded water entitlements, Therefore, no impact would occur.
- e) **No Impact.** The Project would not include restroom or other facilities that would require connection to the local sanitary sewer conveyance and treatment system. During construction restroom facilities would be provided by portable units to be serviced by licensed providers with capacity to support the Project's demand. Therefore, the Project would not require additional treatment capacity that would cause the service provider to request increased permit capacity. Accordingly, there would be no impact.
- f) **Less than Significant.** As discussed in the Project Description approximately 3,000 yards of soil would be removed from the Project site during construction. The soil material has been tested by a certified laboratory and found to contain amounts of arsenic and nickel that exceed the Regional Water Quality Control Board's Tier 1 environmental screening levels (Test America 2016). This report is included as Appendix B. As such, although classified as non-hazardous, this material cannot be beneficially reused onsite and must

be disposed of at a licensed Class III landfill. The material would be taken to either the Kirby Canyon Landfill in Morgan Hill or the Newby Island Landfill in Milpitas.

Aside from this, the Project is anticipated to generate small volumes of solid waste during construction and operation, such as rubbish or small pieces of scrap construction material. The Kirby Canyon Landfill is the closest disposal facility to the Project site and is permitted to take solid waste and the soil removed from the site. This facility is permitted to receive up to 2,600 tons of waste daily and has a remaining capacity of approximately 57,271,507 cubic yards (CalRecycle, 2016). Although the Project would increase the total waste generation in the area, the incremental contribution of the Project could be reasonably accommodated by the landfill. Given existing and potential future landfill capacity, the Project would not result in the local landfill exceeding its permitted capacity; therefore impact would be less than significant.

- g) **No Impact.** The Project would generate solid wastes during construction and operation. During Project construction and operation, the District and its contractors would comply with all applicable solid waste related laws and regulations. Therefore, the Project would not result in impacts related to conflicts with statutes and regulations regarding solid waste.

References

CalRecycle, 2016. Facility/Site Summary Details: Kirby Canyon Recycle and Disposal Facility (43-AN-0008). Available online at: <http://www.calrecycle.ca.gov/SWFacilities/Directory/43-AN-0008/Detail/>. Accessed January 20, 2016.

3.2.19 Mandatory Findings of Significance

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
18. MANDATORY FINDINGS OF SIGNIFICANCE — Would the project:				
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c) Have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Discussion

- a, c) ***Less than Significant with Mitigation.*** The analysis presented in this Initial Study has identified a number of potentially significant environmental impacts attributable to the proposed Project. To ameliorate these impacts, a number of mitigation measures are proposed which will be included in the Project's Mitigation Monitoring and Reporting Program upon adoption of this Mitigated Negative Declaration and approval of the Project. As required by CEQA, these mitigation measures are required to be implemented as directed herein. In addition, the District's BMPs and SCVHP AMMs and Conditions have been incorporated into the Project Description with mitigation measures added where required to ensure Project impacts are less than significant.

With implementation of the BMPs and SCVHP AMMs and Conditions as incorporated into the Project Description and mitigation measures presented herein, the Project does not have the potential to degrade the quality of the environment, including fish or wildlife species or their habitat, plant or animal communities, important examples of the major periods of California history or prehistory, or adverse effects on human beings.

This analysis has determined that Project construction would not generate significant air quality impacts due to dust and wind-borne soil erosion. BMP AQ-1 has been included within the Project Description rendering potential impacts to a less-than-significant level. This BMP includes strategies developed by the Bay Area Air Quality Management District (BAAQMD) for dust control.

SCVHP Condition 1 provides that bird species specifically covered by the SCVHP are protected by the MBTA. SCVHP Condition 15 would minimize the potential impact on western burrowing owl and ensure the impact to less than significant. Mitigation Measure BIO-1 addresses requirements if active nests are located during the pre-construction bird nesting surveys. This measure provides for no-disturbance buffer zones shall be established around nests, with a buffer size established by the qualified biologist.

Potentially significant impacts have been identified for only one sensitive plant species, as BMPs and SCVHP AMMs and Conditions identified within the Project Description prevent significant impacts to all other biological resources. With implementation of Mitigation Measure BIO-2, impacts to sensitive plants would be less than significant.

While this analysis has determined that construction of the Project would not impact any examples of the major periods of California history or prehistory, BMP CU-1 and Mitigation Measure CU-2 would be implemented to ensure that any impacts resulting from the incidental discovery of human remains, or archaeological resources during construction would be less than significant and paleontological resources would be less than significant with mitigation.

With implementation of the BMPs and SCVHP AMMs and Condition 3 as incorporated into the Project Description will bring potential Project-related soils and water quality impacts due to water-borne soil erosion, and topsoil transport, to a less-than-significant level. The SCVHP Condition 3 insures the development of a Storm Water Pollution Prevention Plan (SWPPP) to National Pollution Discharge Elimination System requirements promulgated by the Central Coastal Regional Water Quality Control Board. District BMPs WQ-4, WQ-5, WQ-11, WQ-15, and WQ-16 are also included in as part of the Project Description which provide BMPs specific to water quality and further guidance specific to District activities and facilities.

Potential Project impacts identified in the hazards and hazardous materials analysis could include incidents stemming from: vehicle and equipment use and maintenance; the transport, handling, and storage of hazardous materials; risk of upset; and risk of wildfire. District BMPs HM-7, HM-9, HM-10, and HM-12 have been incorporated into the Project to bring the potential impacts to a less-than-significant level.

- b) ***Less than Significant.*** Consideration of past, present, and reasonably foreseeable projects in the Project area and vicinity indicate that the proposed Coyote Warehouse Project would have a less than significant cumulative impact. In the Project vicinity, the closest project proposed includes the Santa Clara Valley Water District Anderson Dam Seismic Retrofit Project (approximately 0.6 mile northeast of the proposed Project site). This particular project includes seismic retrofitting the identified potential embankment instability as a result of seismic shaking and liquefaction. Additionally, the Cochrane-Borello project (alternately referred to as the San Sebastian Project by the City of Morgan Hill) is located on the east side of Peet Road, north side of Half Road, and east of Cochrane Road, adjacent to the south of the Project site. This project includes a 244-lot

precise development plan and subdivision of a 122-acre parcel. Other than these two projects, there are no ongoing projects in the immediate project vicinity and none are anticipated in the foreseeable future.

The Project would not have impacts to agriculture or forestry resources, mineral resources, or population and housing that would combine with other projects. The proposed activities could have impacts with respect to aesthetics, biological and cultural resources, geology, and hazards and hazardous materials, hydrology and water quality, land use and planning, recreation, public services, transportation and traffic, and utilities and service systems. However, such impacts would be limited to the Project site and, where necessary, mitigated such that they would not substantially combine with other off-site impacts.

However, the Project's potential impacts with respect to air quality and greenhouse gas emissions could extend beyond the site to combine with impacts from other projects. As described in Sections 3.2.3 and 3.2.7, Air Quality and Greenhouse Gas Emissions, respectively, BAAQMD considered the emission levels at which a project's individual emissions would be cumulatively considerable in developing its CEQA significance thresholds. BAAQMD considers projects that result in emissions that exceed its CEQA significance thresholds to result in individual impacts that are cumulatively considerable and significant. As discussed in these sections, the proposed Project's emissions would be limited to the construction period and would be below BAAQMD's cumulatively considerable threshold.

For the reasons presented above, the proposed Project would not be expected to result in adverse impacts to human beings, either directly or indirectly. All impacts identified in this document would be less than significant, or brought to less-than-significant levels with implementation of mitigation measures. The District's BMPs and the SCVHP AMMs and Conditions have been incorporated into the Project Description with mitigation measures added where required to ensure Project impacts are less than significant.

Accordingly, the Project's incremental contribution to potential cumulative impacts would not be cumulatively considerable. Therefore, the Project's cumulative impact would be considered less than significant.

References

- City of Morgan Hill, 2012. Industrial and Commercial Project Status Report. Available online at: <http://www.morgan-hill.ca.gov/DocumentCenter/Home/View/553>.
- City of Morgan Hill, 2015. Morgan Hill Residential Project Status Report. Available online at: <http://www.morgan-hill.ca.gov/DocumentCenter/Home/View/816>.

CHAPTER 4

List of Preparers

Santa Clara Valley Water District

Michael F. Coleman, AICP, Environmental Planner and Project Manager

Kurt Lueneburger, Senior Environmental Planner

Janell Hillman, Biologist III

Siegfried Engineering

Paul Schneider, P.E., QSD/QSP, Engineering Project Manager

Environmental Science Associates, Inc.

Alisa Moore, Project Manager

David D. Davis, AICP, Technical Reviewer

Matthew Fagundes, Air Quality/Greenhouse Gases/Noise

Heidi Koenig, RPA, Cultural Resources

Christopher Rogers, Biological Resources

Shadde Rosenblum, Transportation

Erika Walther, Biological Resources

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CHAPTER 5

Mitigation Monitoring and Reporting Program

Section 5 is the Mitigation, Monitoring and Reporting Program (MMRP) for the Coyote Warehouse Project. The mitigation measures, District best management practices (BMPs), and Santa Clara Valley Habitat Plan conditions presented in this section are compiled from the measures identified in Chapter 3 of this Initial Study/Mitigated Negative Declaration. For each, the timeframe for implementation, responsible party for implementation and responsibility for oversight are identified.

The MMRP will be adopted by the District Board of Directors for implementation by District contractor with District oversight, as appropriate. Additionally, implementation of the MMRP will be reported and tracked consistent with CEQA Guidelines Section 15097 and permit reporting conditions.

Mitigation Measure/District BMP/ Santa Clara Valley Habitat Plan Condition	Implementation Responsibility	Implementation Timing	Monitoring, Enforcement, and Reporting Responsibility
Air Quality			
BMP AQ-1: Use Dust Control Measures The following Bay Area Air Quality Management District (BAAQMD) Dust Control Measures will be implemented: 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day; 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered; 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited; 4. Water used to wash the various exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, etc.) will not be allowed to enter waterways; 5. All vehicle speeds on unpaved roads shall be limited to 15 mph; 6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used; 7. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations), and this requirement shall be clearly communicated to construction workers (such as verbiage in contracts and clear signage at all access points); 8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications, and all equipment shall be checked by a certified visible emissions evaluator; 9. Correct tire inflation shall be maintained in accordance with manufacturer's specifications on wheeled equipment and vehicles to prevent excessive rolling resistance; and, 10. Post a publicly visible sign with a telephone number and contact person at the lead agency to address dust complaints; any complaints shall be responded to and take corrective action within 48 hours. In addition, a BAAQMD telephone number with any applicable regulations will be included.	The District will incorporate the measures into the construction contract specifications and ensure proper implementation. The construction contractor will be responsible for implementation on site.	During construction.	The District will be responsible for enforcement and documenting compliance.

Mitigation Measure/District BMP/ Santa Clara Valley Habitat Plan Condition	Implementation Responsibility	Implementation Timing	Monitoring, Enforcement, and Reporting Responsibility
Biological Resources			
BMP BI-5: Avoid Impacts to Nesting Migratory Birds Nesting birds are protected by state and federal laws. The District will protect nesting birds and their nests from abandonment, loss, damage, or destruction. Nesting bird surveys will be performed by a qualified biologist prior to any activity that could result in the abandonment, loss, damage, or destruction of birds, bird nests, or nesting migratory birds. Inactive bird nests may be removed with the exception of raptor nests. Birds, nests with eggs, or nests with hatchlings will be left undisturbed.	The District will implement the required measures by incorporating this requirement in the contract specifications, as well as engaging the qualified biologist and ensuring site access.	Prior to and during construction.	The District will be responsible for enforcement and documenting compliance.
BMP BI-10: Avoid Animal Entry and Entrapment All pipes, hoses, or similar structures less than 12 inches diameter will be closed or covered to prevent animal entry. All construction pipes, culverts, or similar structures, greater than 2-inches diameter, stored at a construction site overnight, will be inspected thoroughly for wildlife by a qualified biologist or properly trained construction personnel before the pipe is buried, capped, used, or moved. If inspection indicates presence of sensitive or state- or federally-listed species inside stored materials or equipment, work on those materials will cease until a qualified biologist determines the appropriate course of action. To prevent entrapment of animals, all excavations, steep-walled holes or trenches more than 6-inches deep will be secured against animal entry at the close of each day. Any of the following measures may be employed, depending on the size of the hole and method feasibility: 1. Hole to be securely covered (no gaps) with plywood, or similar materials, at the close of each working day, or any time the opening will be left unattended for more than one hour; or 2. In the absence of covers, the excavation will be provided with escape ramps constructed of earth or untreated wood, sloped no steeper than 2:1, and located no farther than 15 feet apart; or 3. In situations where escape ramps are infeasible, the hole or trench will be surrounded by filter fabric fencing or a similar barrier with the bottom edge buried to prevent entry.	The District will incorporate measures into the construction contract specifications and oversee implementation of the required measures. The construction contractor and qualified biologist will be responsible for implementation in the field.	During construction.	The District will be responsible for enforcement and documenting compliance. The construction contractor will provide enforcement and documentation on site.
BMP BI-11: Minimize Predator-Attraction Remove trash daily from the worksite to avoid attracting potential predators to the site.	The District will incorporate measures into the construction contract specifications and oversee implementation of the required measures. The contractor will be responsible for implementation on site.	Daily during construction.	The District or District's contracted designee will be responsible for compliance.

Mitigation Measure/District BMP/ Santa Clara Valley Habitat Plan Condition	Implementation Responsibility	Implementation Timing	Monitoring, Enforcement, and Reporting Responsibility
Biological Resources (cont.)			
Mitigation Measure BIO-1: If Active Bird Nests are Located If active nests are located during the pre-construction bird nesting surveys, no-disturbance buffer zones shall be established around nests, with a buffer size established by the qualified biologist. Typically, these buffer distances are between 50 feet and 250 feet for passerines and between 300 feet and 500 feet for raptors. These distances may be adjusted depending on the level of surrounding ambient activity (i.e., if the Project area is adjacent to a road or community development) and if an obstruction, such as a building structure, is within line-of-sight between the nest and construction. Reduced buffers may be allowed if a full-time qualified biologist is present to monitor the nest and has authority to halt construction if bird behavior indicates continued activities could lead to nest failure. Buffered zones shall be avoided during construction-related activities until young have fledged or the nest is otherwise abandoned.	The District will incorporate measures into the construction contract specifications and implement the required measures by engaging the qualified biologist and ensuring site access. The qualified biologist will be responsible for implementation on site.	During construction.	The District will be responsible for enforcement and documenting compliance. The construction manager and qualified biologist will document that all design criteria have been met.
Mitigation Measure BIO-2: Avoid and Minimize Impacts to Hall's Bush Mallow Prior to the beginning of Project construction, a qualified botanist shall identify any Hall's bush mallow plants on the project site and establish a 5- to 10-foot buffer using k-rail, construction fencing or other appropriate and effective visible fencing or barrier (use new or phytosanitary-treated materials) around the plant during construction activities. The qualified botanist shall mark the location of any Hall's bush mallow plants and advise the construction crew on how to avoid damaging the plant during Project construction. The protective fencing or barrier(s) shall remain in place and be maintained through construction demobilization. If avoidance of the plant is infeasible, the plant shall be removed prior to construction and replanted at an appropriate relocation site. Materials and tools used in the transplantation effort will be new or sanitized prior to use. The relocation site shall be one that is not expected to be disturbed in the future, such as a mitigation site or a developed xeric landscape garden or a relatively protected District site (e.g. Santa Teresa Water Treatment Plant near existing Hall's bush mallow plant location). In addition, prior to the beginning of Project construction, and during the appropriate season for seed collection (i.e., June through September, subject to seasonal variation), a qualified botanist shall collect seed from the specimen and place it in a District-approved seed bank institution (such as Rancho Santa Ana Botanic Garden) for future planting by the District once an appropriate site is identified, or for permanent seed conservation bank storage.	The District will incorporate measures into the construction contract specifications and implement the required measures by engaging the qualified biologist and ensuring site access. The qualified biologist will be responsible for implementation on site.	Prior to and during construction.	The District will be responsible for enforcement and documenting compliance. The construction manager and qualified biologist will document that all design criteria have been met.
SCVHP Condition 1, Avoid Direct Impacts on Legally Protected Plant and Wildlife Species In addition to other legal protections, fully protected bird species that are known to occur in the SCVHP study area, and bird species specifically covered by the SCVHP, are protected by the MBTA. Actions conducted under the SCVHP must comply with the provisions of the MBTA and avoid killing or possessing covered migratory birds, their young, nests, feathers, or eggs.	The District will implement the required measures by engaging the qualified biologist and ensuring site access.	Prior to and during construction.	The District will be responsible for enforcement and documenting compliance. The construction manager and qualified biologist will certify that all protection criteria have been met.

Mitigation Measure/District BMP/ Santa Clara Valley Habitat Plan Condition	Implementation Responsibility	Implementation Timing	Monitoring, Enforcement, and Reporting Responsibility
Biological Resources (cont.)			
SCVHP Condition 15, Western Burrowing Owl To avoid or minimize direct impacts of covered activities on western burrowing owls, the procedures described in SCVHP Section 6.6.1 will be implemented. This condition incorporates survey, avoidance, and minimization guidelines from the following western burrowing owl conservation plans and other sources pertaining to the study area.	The District will implement the required measures by engaging the qualified biologist and ensuring site access.	Prior to and during construction.	The District will be responsible for enforcement and documenting compliance. The construction manager and qualified biologist will certify that all protection criteria have been met.
Cultural Resources			
BMP CU-1: Accidental Discovery of Archaeological Artifacts or Burial Remains If historical or unique archaeological artifacts are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. Work at the location of the find will halt immediately within 30 feet of the find. A “no work” zone shall be established utilizing appropriate flagging to delineate the boundary of this zone. A Consulting Archaeologist will visit the discovery site as soon as practicable for identification and evaluation pursuant to Section 21083.2 of the Public Resources Code and Section 15126.4 of the California Code of Regulations. If the archaeologist determines that the artifact is not significant, construction may resume. If the archaeologist determines that the artifact is significant, the archaeologist will determine if the artifact can be avoided and, if so, will detail avoidance procedures. If the artifact cannot be avoided, the archaeologist will develop within 48 hours an Action Plan which will include provisions to minimize impacts and, if required, a Data Recovery Plan for recovery of artifacts in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines. If burial finds are accidentally discovered during construction, work in affected areas will be restricted or stopped until proper protocols are met. Upon discovering any burial site as evidenced by human skeletal remains, the County Coroner will be immediately notified and the field crew supervisor shall take immediate steps to secure and protect such remains from vandalism during periods when work crews are absent. No further excavation or disturbance within 30 feet of the site or any nearby area reasonably suspected to overlie adjacent remains may be made except as authorized by the County Coroner, California Native American Heritage Commission, and/or the County Coordinator of Indian Affairs.	The District or its contracted designee will implement the provisions of the Archeological Data Recovery Program (ARDP) required by the Archaeological Research Design/Testing Plan (ARDTP). A qualified archaeologist who meets the Secretary of the Interior's Professional Qualification Standards (36 CFR 61) and a Native American monitor retained by the District will be responsible for conducting the survey and data recovery described in this measure, as required. If required, the qualified archeologist will prepare an ARDTP.	During construction.	The District will be responsible for enforcement and documenting compliance. If required, the District will prepare a written report documenting the outcome of the ARDP.

Mitigation Measure/District BMP/ Santa Clara Valley Habitat Plan Condition	Implementation Responsibility	Implementation Timing	Monitoring, Enforcement, and Reporting Responsibility
Cultural Resources (cont.)			
Mitigation Measure CU-2: Discovery of Paleontological Resources If potential fossils are discovered during Project implementation, all earthwork or other types of ground disturbance within 50 feet of the find shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the paleontologist may record the find and allow work to continue, or recommend salvage and recovery of the fossil. The paleontologist may also propose modifications to the stop-work radius based on the nature of the find, site geology, and the activities occurring on the site. If treatment and salvage is required, recommendations will be consistent with Society of Vertebrate Paleontology guidelines (2010) and currently accepted scientific practice. If required, treatment for fossil remains may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation of a report for publication describing the finds.	The District will incorporate measures into the construction contract specifications and implement the required measures by engaging the qualified professional paleontologist and ensuring site access.	During construction.	The District will be responsible for enforcement and documenting compliance. The construction manager and qualified professional paleontologist will certify that all protection criteria have been met.
Geology, Soils, and Seismicity			
VHP Condition 3, Maintain Hydrologic Conditions and Protect Water Quality This condition requires that development projects avoid or minimize water quality impacts, consistent with existing National Pollution Discharge Elimination System standards required by the San Francisco and Central Coast Regional Water Quality Control Boards. For detailed information, see Habitat Plan pages 6-12 to 6-13 and Table 6- 2. This condition of the VHP essentially requires a SWPPP and the District will prepare to meet all Regional Board and City of Morgan Hill requirements.	The District will incorporate measures into the construction contract specifications, requiring the construction contractor to abide by the requirements of the NDPES permit and SWPPP, which will be prepared by a QSP/QSP.	All phases of construction.	The District or District's contracted designee will be responsible for enforcement and documenting compliance.
Hazards and Hazardous Materials			
BMP HM-7: Restrict Vehicle and Equipment Cleaning to Appropriate Locations Vehicles and equipment may be washed only at approved areas. No washing of vehicles or equipment will occur at job sites.	The District will incorporate measures into the construction contract specifications and oversee the implementation of the measure. The contractor will be responsible for implementation on site.	During construction.	The District or District's contracted designee will be responsible for enforcement and documenting compliance.

Mitigation Measure/District BMP/ Santa Clara Valley Habitat Plan Condition	Implementation Responsibility	Implementation Timing	Monitoring, Enforcement, and Reporting Responsibility
Hazards and Hazardous Materials (cont.)			
BMP HM-9: Ensure Proper Hazardous Materials Management Measures will be implemented to ensure that hazardous materials are properly handled and the quality of water resources is protected by all reasonable means. 1. Prior to entering the work site, all field personnel will know how to respond when toxic materials are discovered. 2. Contact of chemicals with precipitation will be minimized by storing chemicals in watertight containers with appropriate secondary containment to prevent any spillage or leakage. 3. Petroleum products, chemicals, cement, fuels, lubricants, and non-storm drainage water or water contaminated with the aforementioned materials will not contact soil and not be allowed to enter surface waters or the storm drainage system. 4. All toxic materials, including waste disposal containers, will be covered when they are not in use, and located as far away as possible from a direct connection to the storm drainage system or surface water. 5. Quantities of toxic materials, such as equipment fuels and lubricants, will be stored with secondary containment that is capable of containing 110% of the primary container(s). 6. The discharge of any hazardous or nonhazardous waste as defined in Division 2, Subdivision 1, Chapter 2 of the California Code of Regulations will be conducted in accordance with applicable State and federal regulations. 7. In the event of any hazardous material emergencies or spills, personnel will call the Chemical Emergencies/Spills Hotline at 1 800 510 5151.	The District will incorporate measures into the construction contract specifications and oversee the implementation of the measure. The contractor will be responsible for implementation on site.	Prior to and during construction.	The District or District's contracted designee will be responsible for enforcement and documenting compliance.
BMP HM-10: Utilize Spill Prevention Measures Prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water following these measures: 1. Field personnel will be appropriately trained in spill prevention, hazardous material control, and clean-up of accidental spills; 2. Equipment and materials for cleanup of spills will be available on site, and spills and leaks will be cleaned up immediately and disposed of according to applicable regulatory requirements; 3. Field personnel will ensure that hazardous materials are properly handled and natural resources are protected by all reasonable means; 4. Spill prevention kits will always be in close proximity when using hazardous materials (e.g., at crew trucks and other logical locations), and all field personnel will be advised of these locations; and, 5. The work site will be routinely inspected to verify that spill prevention and response measures are properly implemented and maintained.	The District will incorporate measures into the construction contract specifications and oversee the implementation of the required measure. The contractor will be responsible for implementation on site.	Prior to and daily during construction	The District or District's contracted designee will be responsible for enforcement and documenting compliance.

Mitigation Measure/District BMP/ Santa Clara Valley Habitat Plan Condition	Implementation Responsibility	Implementation Timing	Monitoring, Enforcement, and Reporting Responsibility
Hazards and Hazardous Materials (cont.)			
BMP HM-12, Incorporate Fire Prevention Measures - All earthmoving and portable equipment with internal combustion engines will be equipped with spark arrestors. - During the high fire danger period (April 1–December 1), work crews will have appropriate fire suppression equipment available at the work site. - An extinguisher shall be available at the project site at all times when welding or other repair activities that can generate sparks (such as metal grinding) is occurring. - Smoking shall be prohibited except in designated staging areas and at least 20 feet from any combustible chemicals or vegetation.	The District will incorporate measures into the construction contract specifications. The construction contractor will be responsible for implementation in the field.	During construction.	The District or District's contracted designee will be responsible for enforcement and documenting compliance.
Hydrology and Water Quality			
BMP WQ-4: Limit Impacts From Staging and Stockpiling Materials - To protect on-site vegetation and water quality, staging areas should occur on access roads, surface streets, or other disturbed areas that are already compacted and only support ruderal vegetation. Similarly, all equipment and materials (e.g., road rock and project spoil) will be contained within the existing service roads, paved roads, or other pre-determined staging areas. - Building materials and other project-related materials, including chemicals and sediment, will not be stockpiled or stored where they could spill into water bodies or storm drains. - No runoff from the staging areas may be allowed to enter water ways, including the creek channel or storm drains, without being subjected to adequate filtration (e.g., vegetated buffer, swale, hay wattles or bales, silt screens). - The discharge of decant water to water ways from any on-site temporary sediment stockpile or storage areas is prohibited. During the wet season, no stockpiled soils will remain exposed, unless surrounded by properly installed and maintained silt fencing or other means of erosion control. During the dry season; exposed, dry stockpiles will be watered, enclosed, covered, or sprayed with non-toxic soil stabilizers.	The District will incorporate measures into the construction contract specifications. The construction contractor will be responsible for implementation in the field.	During construction.	The District or District's contracted designee will be responsible for enforcement and documenting compliance.

Mitigation Measure/District BMP/ Santa Clara Valley Habitat Plan Condition	Implementation Responsibility	Implementation Timing	Monitoring, Enforcement, and Reporting Responsibility
Hydrology and Water Quality (cont.)			
BMP WQ-5: Stabilize Construction Entrances and Exits Measures will be implemented to minimize soil from being tracked onto streets near work sites: 1. Methods used to prevent mud from being tracked out of work sites onto roadways include installing a layer of geotextile mat, followed by a 4-inch thick layer of 1 to 3 inch diameter gravel on unsurfaced access roads. 2. Access will be provided as close to the work area as possible, using existing ramps where available and planning work site access so as to minimize disturbance to the water body bed and banks, and the surrounding land uses.	The District will incorporate measures into the construction contract specifications. The construction contractor will be responsible for implementation in the field.	During construction.	The District or District's contracted designee will be responsible for enforcement and documenting compliance.
BMP WQ-11: Maintain Clean Conditions at Work Sites The work site, areas adjacent to the work site, and access roads will be maintained in an orderly condition, free and clear from debris and discarded materials on a daily basis. Personnel will not sweep, grade, or flush surplus materials, rubbish, debris, or dust into storm drains or waterways. For activities that last more than one day, materials or equipment left on the site overnight will be stored as inconspicuously as possible, and will be neatly arranged. Any materials and equipment left on the site overnight will be stored to avoid erosion, leaks, or other potential impacts to water quality Upon completion of work, all building materials, debris, unused materials, concrete forms, and other construction-related materials will be removed from the work site.	The District will incorporate measures into the construction contract specifications. The construction contractor will be responsible for implementation in the field.	During construction.	The District or District's contracted designee will be responsible for enforcement and documenting compliance.
BMP WQ-15: Prevent Water Pollution Oily, greasy, or sediment laden substances or other material that originate from the project operations and may degrade the quality of surface water or adversely affect aquatic life, fish, or wildlife will not be allowed to enter, or be placed where they may later enter, any waterway. The project will not increase the turbidity of any watercourse flowing past the construction site by taking all necessary precautions to limit the increase in turbidity as follows: 1. where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases will not exceed 5 percent; 2. where natural turbidity is greater than 50 NTU, increases will not exceed 10 percent; 3. where the receiving water body is a dry creek bed or storm drain, waters in excess of 50 NTU will not be discharged from the project.	The District will conduct this assessment, as needed.	During and following construction	The District will be responsible for enforcement and documenting compliance.

Mitigation Measure/District BMP/ Santa Clara Valley Habitat Plan Condition	Implementation Responsibility	Implementation Timing	Monitoring, Enforcement, and Reporting Responsibility
Hydrology and Water Quality (cont.)			
Water turbidity changes will be monitored. The discharge water measurements will be made at the point where the discharge water exits the water control system for tidal sites and 100 feet downstream of the discharge point for non-tidal sites. Natural watercourse turbidity measurements will be made in the receiving water 100 feet upstream of the discharge site. Natural watercourse turbidity measurements will be made prior to initiation of project discharges, preferably at least 2 days prior to commencement of operations.			
BMP WQ-16: Prevent Stormwater Pollution To prevent stormwater pollution, the applicable measures from the following list will be implemented: 1. Soils exposed due to project activities will be seeded and stabilized using hydroseeding, straw placement, mulching, and/or erosion control fabric. These measures will be implemented such that the site is stabilized and water quality protected prior to significant rainfall. In creeks, the channel bed and areas below the Ordinary High Water Mark are exempt from this BMP. 2. The preference for erosion control fabrics will be to consist of natural fibers; however, steeper slopes and areas that are highly erodible may require more structured erosion control methods. No non-porous fabric will be used as part of a permanent erosion control approach. Plastic sheeting may be used to temporarily protect a slope from runoff, but only if there are no indications that special-status species would be impacted by the application. 3. Erosion control measures will be installed according to manufacturer's specifications. 4. To prevent stormwater pollution, the appropriate measures from, but not limited to, the following list will be implemented: • Silt Fences • Straw Bale Barriers • Brush or Rock Filters • Storm Drain Inlet Protection • Sediment Traps or Sediment Basins • Erosion Control Blankets and/or Mats	The District will incorporate the required measures in the construction contract and oversee the implementation of the required measure. The construction contractor will be responsible for implementation on site.	Prior to and following construction	The District or District's contracted designee will be responsible for enforcement and documenting compliance.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR THE CONSTRUCTION AND OPERATION OF A 21,600 SQUARE FOOT WAREHOUSE STORAGE FACILITY TO OPERATE ON A 8.23 ACRE PARCEL LOCATED NORTH OF PEET ROAD BETWEEN HALF ROAD AND MISSION AVENIDA. (APN 728-34-008)

WHEREAS, such request was considered by the Planning Commission at their meeting of August 8, 2017, at which time the Planning Commission approved application UP2017-0017 Peet-SCVWD; and

WHEREAS, the Planning Commission has made the findings required for approval of a Conditional Use Permit as described in Section 18.54.050 of the Morgan Hill Municipal Code; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved use together with the below conditions is consistent with the General Plan land use designation of the subject site, which is "Public Facilities" and a zoning district designation of Public Facilities "PF"; and

SECTION 2. The Planning Commission of the City of Morgan Hill hereby certifies that it reviewed and considered the information contained in the mitigated negative declaration and finds that, on the basis of the whole record before it (including the final initial study and any comments received), there is no substantial evidence that the project will have a significant effect on the environment, that the Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted by the Lead Agency, the Board of Directors of the Santa Clara Valley Water District prior to action taken to adopt the Resolution. The custodian of the documents or other material which constitute the record shall be the Community Development Department; and

SECTION 3. The Planning Commission has made the findings required for approval of a Conditional Use Permit as described in Section 18.54.050 of the Morgan Hill Municipal Code. The basis and the findings are set forth in the staff report of the Planning Commission Meeting of August 8, 2017, which findings were duly considered by the Commission and are hereby adopted.

SECTION 4. The use shall be expressly conditioned on conformance to conditions incorporated herein and as attached as Exhibit "A".

SECTION 5 The approved project shall be conducted in a manner consistent with the proposed operations explained within the staff report of the Planning Commission Meeting of August 8, 2017 and Site Plans Titled Coyote New Warehouse Project stamped date received December 22, 2016, and by this reference incorporated herein.

PASSED AND ADOPTED THIS 8th DAY OF AUGUST 2017, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

JENNA LUNA, Deputy City Clerk

JOHN MCKAY, Chair

A F F I D A V I T

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Applicant

Date: _____

EXHIBIT A

CONDITIONS OF APPROVAL

Project/Application: UP2016-0017: Peet-SCVWD

The following conditions shall be met prior to the issuance of building and/or site development permits and shall continue for the life of the conditional use permit except as otherwise specified in the conditions.

ACRONYMS:

MHMC – Morgan Hill Municipal Code

MHARH – Morgan Hill Architectural Review Handbook

PLANNING DIVISION

I. TIME LIMITS

- A. The Conditional Use Permit approval granted under this Resolution shall remain in effect for 24 months to August 8, 2019. Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted prior to the expiration date. **(MHMC 18.54.070 A)**
- B. In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions. **(MHMC 18.54.090)**

II. OTHER CONDITIONS

- A. The Conditional Use Permit is approved solely for the operation of the 21,600-square foot warehouse storage facility and outdoor storage yard as described in the applicants proposed statement of operations (except as otherwise conditioned contained herein) on file with the planning division dated October 7, 2016 (application UP2016-0017: Peet - SCVWD) and as shown in the area depicted on the illustrations in the set of plans date stamped December 22, 2016. Any expansion, intensification, or changes to the uses approved under this Conditional Use Permit shall be permitted only upon amendment of this Conditional Use Permit or approval of a separate Conditional Use Permit application.
- B. The Applicant shall obtain a Design Review Permit prior to applying for building permits for the project. The site plan for the Design Review permit shall be in substantial compliance with the site plan approved through the conditional use permit and shall incorporate applicable conditions of approval contained herein.

- C. All on-site lighting shall be designed and installed to limit glare or visibility by adjacent residential uses.
- D. ***The use and storage of hazardous materials shall comply with the Hazardous Materials Storage provision as set forth in Chapter 8.40 of the Morgan Hill Municipal Code.***
- E. **DEFENSE AND INDEMNITY:** Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this Conditional Use Permit approval. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.
- F. **MITIGATION FEE ACT:** Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.
- G. **ANNUAL REVIEW:** In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions.
- H. **SIGNED COPIES OF RESOLUTION:** Submit two (2) signed copies of Resolution ____ to the Planning Division prior to issuance of building permits.

[Home Table of Contents](#)**§ 15096. Process for a Responsible Agency.**

14 CA ADC § 15096

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 14. Natural Resources

Division 6. Resources Agency

Chapter 3. Guidelines for Implementation of the California Environmental Quality Act

Article 7. EIR Process

14 CCR § 15096

§ 15096. Process for a Responsible Agency.

(a) General. A responsible agency complies with CEQA by considering the EIR or negative declaration prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved. This section identifies the special duties a public agency will have when acting as a responsible agency.

(b) Response to Consultation. A responsible agency shall respond to consultation by the lead agency in order to assist the lead agency in preparing adequate environmental documents for the project. By this means, the responsible agency will ensure that the documents it will use will comply with CEQA.

(1) In response to consultation, a responsible agency shall explain its reasons for recommending whether the lead agency should prepare an EIR or negative declaration for a project. Where the responsible agency disagrees with the lead agency's proposal to prepare a negative declaration for a project, the responsible agency should identify the significant environmental effects which it believes could result from the project and recommend either that an EIR be prepared or that the project be modified to eliminate the significant effects.

(2) As soon as possible, but not longer than 30 days after receiving a notice of preparation from the lead agency, the responsible agency shall send a written reply by certified mail or any other method which provides the agency with a record showing that the notice was received. The reply shall specify the scope and content of the environmental information which would be germane to the responsible agency's statutory responsibilities in connection with the proposed project. The lead agency shall include this information in the EIR.

(c) Meetings. The responsible agency shall designate employees or representatives to attend meetings requested by the lead agency to discuss the scope and content of the EIR.

(d) Comments on Draft EIRs and Negative Declarations. A responsible agency should review and comment on draft EIRs and negative declarations for projects which the responsible agency would later be asked to approve. Comments should focus on any shortcomings in the EIR, the appropriateness of using a negative declaration, or on additional alternatives or mitigation measures which the EIR should include. The comments shall be limited to those project activities which are within the agency's area of expertise or which are required to be carried out or approved by the agency or which will be subject to the exercise of powers by the agency. Comments shall be as specific as possible and supported by either oral or written documentation.

(e) Decision on Adequacy of EIR or Negative Declaration. If a responsible agency believes that the final EIR or negative declaration prepared by the lead agency is not adequate for use by the responsible agency, the responsible agency must either:

- (1) Take the issue to court within 30 days after the lead agency files a notice of determination;
- (2) Be deemed to have waived any objection to the adequacy of the EIR or negative declaration;
- (3) Prepare a subsequent EIR if permissible under Section 15162; or
- (4) Assume the lead agency role as provided in Section 15052(a)(3).

(f) Consider the EIR or Negative Declaration. Prior to reaching a decision on the project, the responsible agency must consider the environmental effects of the project as shown in the EIR or negative declaration. A subsequent or supplemental EIR can be prepared only as provided in Sections 15162 or 15163.

(g) Adoption of Alternatives or Mitigation Measures.

(1) When considering alternatives and mitigation measures, a responsible agency is more limited than a lead agency. A responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of

the project which it decides to carry out, finance, or approve.

(2) When an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment. With respect to a project which includes housing development, the responsible agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.

(h) Findings. The responsible agency shall make the findings required by Section 15091 for each significant effect of the project and shall make the findings in Section 15093 if necessary.

(i) Notice of Determination. The responsible agency should file a notice of determination in the same manner as a lead agency under Section 15075 or 15094 except that the responsible agency does not need to state that the EIR or negative declaration complies with CEQA. The responsible agency should state that it considered the EIR or negative declaration as prepared by a lead agency.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21165, 21080.1, 21080.3, 21080.4, 21082.1 and 21002.1(b) and (d), Public Resources Code.

HISTORY

1. Amendment of subsections (b) and (d) filed 1-30-86; effective thirtieth day thereafter (Register 86, No. 5).
2. Change without regulatory effect amending Note filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

This database is current through 7/28/17 Register 2017, No. 30

14 CCR § 15096, 14 CA ADC § 15096

END OF DOCUMENT

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Item # 1**AGENDA DATE: 08/08/17****SUPPLEMENTAL # 3**

**Coyote Warehouse Project
City of Morgan Hill Planning Commission Questions of 08-08-17
Answered by Santa Clara Valley Water District**

Below are City of Morgan Hill questions and District answers for Tuesday's Planning Commission Meeting on the Coyote Warehouse Project

1. Please provide more information about the difference between Lead Agency and Responsible Agency.

CEQA Guidelines Section 15050

"Lead Agency" is where a project is to be carried out or approved by more than one public agency, one public agency shall be responsible for preparing an EIR or Negative Declaration for the project. This agency shall be called the Lead Agency

A "Responsible Agency" is any public agency, other than the lead agency, which has the responsibility for approving the project where more than one public agency is involved. In this case, the City of Morgan Hill serves as a responsible agency, with responsibilities associated with the issuance of building and conditional use permits.

2. IS Section 2.3: This section makes no mention of the approved residential project, Borello Ranch, which will border the Proposed project the entire length of the North and East sides of the project. How will the project protect the future Residents? In addition, there is no mention of the proposed school just South of the West side of the project.

The CEQA MND for the Coyote Warehouse Project (a separate project), section 2.3 generally describes the project area setting and mentions adjacent and nearby residential areas. The discussion of the project's environmental effects focuses on existing condition. However, the MND addresses the Borello Ranch project on pages 3-79b of the Final MND under cumulative impacts.

Also the City of Morgan Hill did complete the Final Environmental Impact Report COCHRANE-BORELLO RESIDENTIAL DEVELOPMENT PROJECT State Clearinghouse #2011082039 as dated August 2012 which previously anticipated environmental impacts associated with the proposed development, including effects associated with the existing water district uses in the area, as summarized below.

Land Use as Addressed in the Borello Residential Development Project EIR
Impacts to the Proposed Project (Borello Residential Project itself were described in the EIR as approved by the City and concluded that there were no land uses from the District owned (Coyote Pump Station).

Item # 1**AGENDA DATE: 08/08/17****SUPPLEMENTAL # 3**

The separate Final MND prepared for the District Coyote Warehouse concluded also that there were no significant land use impacts (see page 3-56 of the Final MND). The water district site land use is consistent with the City of Morgan Hill General Plan and Zoning.

The Borello Residential project site as defined in the City's 2012 EIR is currently used for agricultural purposes, and is proposed for redevelopment with single family residential and associated secondary units. The surrounding land uses are predominantly single-family residential, with the exception of the Santa Clara Valley Water District's (SCVWD) Coyote Pumping Plant bordering the southwestern portion of the site, and the SCVWD Anderson Hydroelectric Facility located to the northwest of the project site. The proposed development of the property with 244 single family residences, and 180 secondary units would place new residences in close proximity to the SCVWD Pumping Plant and the SCVWD Hydroelectric Facility. The SCVWD Pumping Plant is enclosed within a large brick building on the SCVWD parcel, which would be setback approximately 300 feet from the nearest proposed residence. The SCVWD Anderson Hydroelectric Facility is a concrete structure and would be setback approximately 100 feet from the nearest proposed residence. As discussed in detail in Section 3.16 Noise and Vibration, operations at the Santa Clara Water District Facility may at times generate noise levels that range from 53 to 69 dBA Leq at the property line. Second-story facades of residential buildings constructed closest to the facility may have direct line-of-sight to noise sources at the Santa Clara Water District Facility, thereby requiring noise insulation in order to minimize the intrusiveness of these intermittent sounds indoors. Minimal employee traffic may be observed entering the SCVWD gated parking area, but is restricted to normal business hours, and would not generate enough traffic to be considered a significant land use impact. There are three Pacific Gas and Electric (PG&E) easements running through the project site. Two of the easements are for high-pressure gas lines, and the third is intended to be abandoned. These are discussed further in Section 3.10 Utilities. Impact LU – 5: The proposed project would not be subject to significant land use compatibility impact. (Less Than Significant Impact) 3.1.3 Mitigation Measures No mitigation required.

EIR-3.1.4 Conclusion Impact LU-1: The proposed project would not divide an established community. (Less Than Significant Impact) Impact LU-2 and 3: The proposed rezoning and subdividing the project site, as well as the Peet Road realignment, would not result in a significant land use impact. (Less Than Significant Impact) Section 3.0 Environmental Setting, Impacts, and Mitigation Cochrane-Borello Residential Development Project 47 EIR City of Morgan Hill August 2012 Impact LU-4: The proposed project would not conflict with any applicable adopted habitat conservation plan or natural community conservation plan. (Less Than Significant Impact) Impact LU – 5: The proposed project would not be subject to significant land use compatibility impact. (Less Than Significant Impact)

Noise (as Addressed in the Borello Residential Development Project EIR)

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Impact NV-1: Future residential uses developed at the project site would not be exposed to exterior noise levels from transportation sources greater than 60 dBA Ldn, which is in compliance with the exterior noise and land use compatibility standard presented in the City of Morgan Hill's General Plan. Interior noise levels would be expected to be below 45 dBA Ldn assuming standard residential construction. Noise levels generated by operations at the Santa Clara Water District Facility may at times exceed the City of Morgan Hill's Zoning Code noise limits. (Significant Impact)

MM NV-1.1:

Notify residents of Lots 41, 42, 78, 79, 81, 82, 109-112, 227, 228, and 230 of the potential for intermittent noises from operations and activities at the Santa Clara Water District Facility. This notification will be provided in the deed to the property.

MM NV-1.2:

Construct eight-foot noise barriers, relative to the residential pad elevation, to reduce intermittent noises from activities associated with operations at the Santa Clara Water District Facility to less than 60 dBA. Noise barriers would be required at the property lines of Lots 41, 42, 78, 79, 81, 82, 109-112, 227, 228, and 230 that adjoin the Santa Clara Water District Facility.

Consideration of a "No Project" alternative is mandatory. Other logical alternatives include a reduced scale alternative, design alternatives, and a location alternative. Alternatives discussed in the EIR include: 1. No Project 2. Reduced Scale Alternative 3. Location Alternatives 4. On-Site Agricultural Preservation Alternative 5. Noise Buffer Alternative 6. Construction Schedule Alternative

Noise Buffer Alternative Under this alternative (not selected by the City of Morgan Hill), a setback is proposed for the Santa Clara Valley Water District (SCVWD) facility located to the west of the project site. The setback is proposed as a noise buffer for future residents adjacent to the SCVWD facility. Operations at the Santa Clara Water District Facility could generate intermittent maximum instantaneous noise levels of approximately 85 dBA Lmax at the property line (assuming that the noise source was located no closer than 25 feet from the property line). Per the Municipal Code, when uses are adjacent or contiguous to residential, park or Section 1.0 Introduction Cochrane-Borello Residential Development Project 18 EIR City of Morgan Hill August 2012 institutional uses, the maximum sound level shall not exceed 60 dBA Lmax. Assuming no intervening structures or noise barriers, residential land uses would have to be set back approximately 450 feet from the SCVWD property line to ensure that Lmax noise levels would be maintained at or below 60 dBA, thereby eliminating the 53 proposed lots within 450 feet of the SCVWD facility. The Noise Buffer Alternative is considered feasible from a land use and planning standpoint, however, the reduction of 53 lots involved in this Alternative would not meet the

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basic project objective of development of 244 single family residences and 180 detached cottage units at the project site.

Environmentally Superior Alternative(s) The CEQA Guidelines specify that an EIR must identify the environmentally superior alternative among those alternatives discussed. If the environmentally superior alternative is the “No Project” alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. [Section 15126.6(e)(2)] Based upon the previous discussion, the Reduced Scale Alternative would be the environmentally superior alternative. The Reduced Scale Alternative, would avoid most of the significant impacts of the project, with the exception of the loss of prime farmland, however, it is the most environmentally superior of all the proposed alternatives because it reduced the greenhouse gas emissions impacts to below the threshold requiring analysis.

3. IS Section 2.4: This section appears to disagree with Section 2.3 (2.2?) Project Objectives number 3. Please explain.

The District MND sections read as follows:

2.2 Project Objectives and Need

The purpose of the Project is to create a District storage facility in close proximity to the federal San Felipe Division facilities (i.e., pipes, pump stations) which the District must service and repair under O&M Agreement 7-07-W0023 with Reclamation. The Project objectives include:

3. Relocating supplies stored at Pacheco Pumping Plant, as well as Reclamation’s buildings on the federal property, to a permanent storage facility on the District-owned parcel located adjacent to the existing Coyote Pumping Plant in the City of Morgan Hill.

2.4 Proposed Project

The Project would construct a warehouse on the District-owned parcel in the City of Morgan Hill to store the District’s pipeline parts and other materials used for the maintenance of District and Reclamation water facilities (see Figure 2-3). The Project would consolidate materials and activities currently at the site and adjacent Coyote Pumping Plant. The project would not result in an increase in staff or activities at the site.

Answer: There may be some confusion on parcels. There is the existing Coyote Pumping Plant parcel owned by Bureau of Reclamation, and the separate District owned parcel located behind the Coyote Pumping Plant parcel that will be the site of the new Coyote Warehouse. This new warehouse will consolidate and clean up materials on both parcels. Any materials that come from Pacheco Pumping Plant off Hwy 152 will be planned for indoor storage within the new warehouse.

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4. IS Section 2.6: This section indicates hazardous materials could be present in the Warehouse which does not agree With the Statement of Operations.

The District CEQA MND sections read as follows:

2.6 Project Warehouse Operations

Operations at the Project site would be similar to the existing operations, with the transportation and storage of materials at the site. The site would continue to operate from approximately 6:30 a.m. to 4:00 p.m. five days a week. The existing District employees would remain at the Project site. Operation of the Project would not introduce any new daily employee traffic trip or delivery truck trips. The warehouse could continue to house hazardous materials such as oils, fuels, paints, solvents, acids and bases, disinfectants, and metals, which are currently stored at existing facilities onsite.

Answer: While the Operations letter dated 10-7-17 page 2, states the warehouse will not store hazardous materials such as oil, fuels or paints, the CEQA document stands correct, in that small quantities of these materials will be stored within the warehouse and meet all federal, state, and local requirements as far as storage.

5. IS Section 3.2.5: The survey was done in 2015. Since this study was done, we know that a significant archaeological site Was discovered within a few hundred feet to the North of this project. Would this find change anything?

Answer: The CEQA consulting firm of ESA reviewed the existing conditions of the Warehouse site, as well as the survey conducted by Holman & Associates for the Borello EIR, and did not find a significant likelihood that native American finds would occur on the Warehouse property. The MND section 3.2.5 found a less than significant impact and has a BMP-CU-1 in place for discovery of artifacts discovered during construction. In addition, the District is working closely with the City of Morgan Hill Planning to do everything possible to provide extreme care of potential cultural resources should they occur on site. The existing reports and finds on the adjacent residential site will not change procedures; guidelines and laws in place and cultural resource requirements will be fully complied with by the District.

6. IS Section 3.2.19 Discussion b: I believe the location of the Borello Ranch project is incorrect. This Section does not Mention the proposed school next door which current has an IS in circulation. What is the impact on this section?

Answer: The District believes its finding is correct that cumulative impacts from the Warehouse Project are insignificant and the adjacent Borello project was fully

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considered in the MND under Section 3.2.19b, page 3-79. Also refer to City of Morgan Hill EIR in question 2 above that found no land use conflicts.

Additionally, we understand the school district did not notify the water district of a current CEQA document out for public review (nor with the previous CEQA document dated October 2012) that deals with the construction of the proposed Borello school. The district is providing some response today on the newer CEQA document just out from the school district and requesting additional time to respond to this CEQA document.

The water district believes that between the Warehouse MND and the City's Borello Residential Development EIR, impacts of both projects have been fully analyzed. The Coyote Warehouse Project team has not had opportunity to review the new school site construction proposed as we were not included in the notice or mail out apparently.

Did the School District perform a Title 5 analysis on the school site? It seems that there are existing risks in the area, such as the PG&E gas lines. Is the aqueduct under pressures? If so, that could be a risk issue, too, for the School District.

7. IS Section 3.2.19 Discussion b: Briefly mentions the Anderson Dam Retrofit project. In Section 3.2.6, does not mention the fault lines found under Anderson Dam which impacted the Anderson Dam Retrofit Project. What is the impact?

Answer: This separate project is just starting the CEQA EIR process. The public scoping meeting for Anderson Dam is set for September 13, 2017. Full environmental impacts of the dam retrofit will be analyzed in this EIR.

The CEQA question is whether the project would expose people to greater risk. The warehouse project would not increase population and expose a greater number of people to risk than those already there.

Also, would this be an issue under the CBIA case where this project would not further exacerbate an existing risk (i.e., the fault)?

8. I do not believe there was any discussion of the impact of the failure of Anderson Dam on this project. Is this an Issue?

Answer: This separate project is just starting the CEQA EIR process. The full environmental impacts of the dam retrofit will be analyzed in this EIR.

Also, potential inundation resulting from dam failure is covered in 3.2.9.1, page 3-54. As discussed, the Coyote Warehouse project would have a less than significant impact associated with flood inundation that could result from a dam failure

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9. I do not believe there was any discussion of the hazardous material, dieldrin, which has been found on properties adjacent to the project site. Has this chemical been investigated?

Answer: The soil tested in the CEQA IS/MND for the Coyote Warehouse project showed non-detect levels for Dieldrin. The landfill, did require different testing prior to removal of the stockpiles (existing materials removed from streams that had been stored at the Coyote warehouse site). The Landfill testing found Dieldrin target levels to be extremely low and were accepted for local landfill cover. The District is getting underway to complete additional soils testing for native ground that was located under the stockpiles and will share outcome with the City and the public.

The soil characterization report for the stockpiles was included in Appendix B. Invasive subsurface testing was not in the scope of the CEQA document.

Planning Commission August 8, 2017– Agenda Item: 1

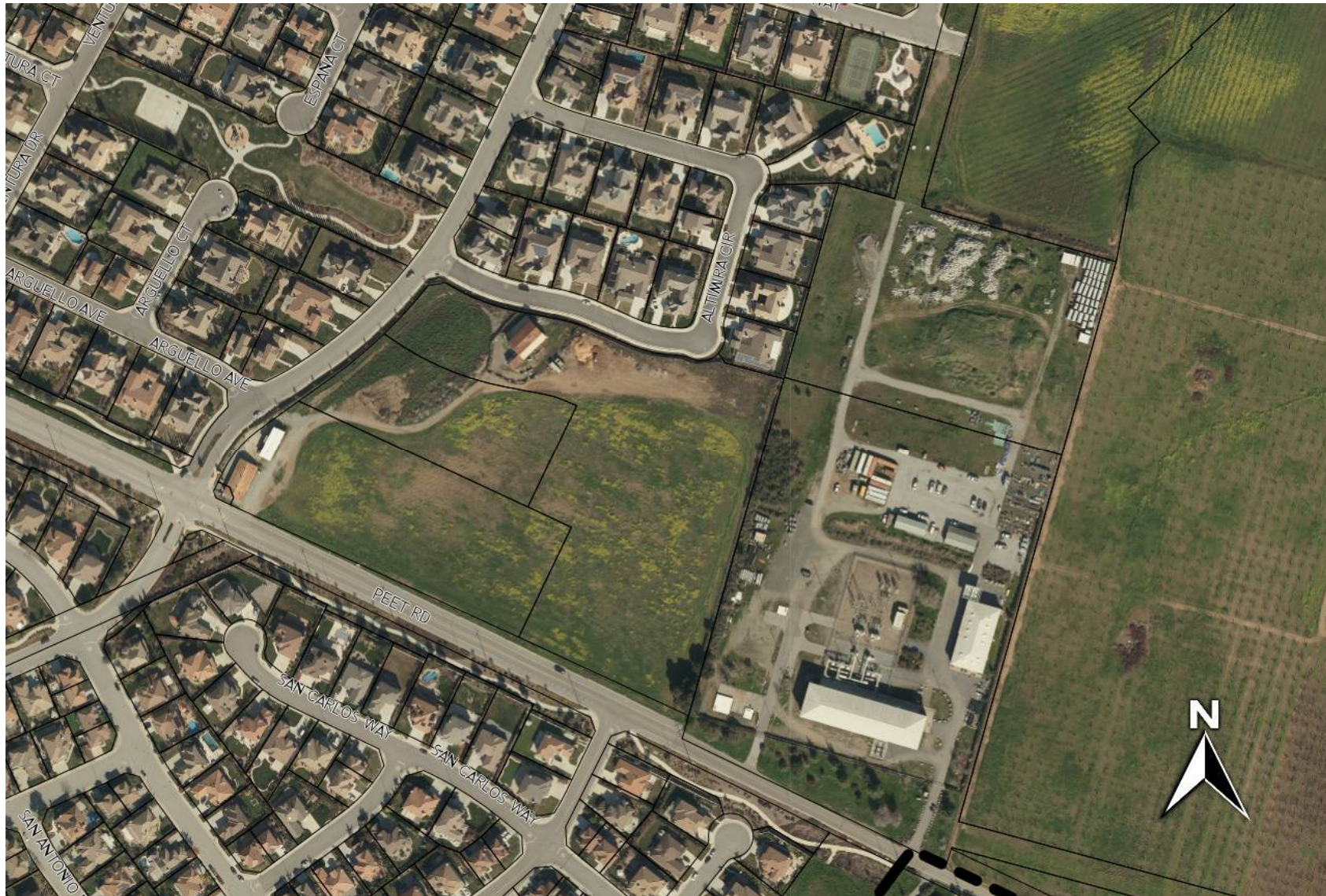
PEET – SCVWD: COYOTE WAREHOUSE PROJECT

REQUEST: USE PERMIT, UP2016-0017: PEET-SCVWD:
Conditional Use Permit to allow
construction of a 21,600 square foot
warehouse facility

OWNER: Santa Clara Valley Water District

CEQA: Mitigated Negative Declaration was adopted
for the project in a prior action by the Lead
Agency

Planning Commission August 8, 2017– Agenda Item: 1



Attachment: Presentation (1352 : Conditional Use Permit for Coyote Warehouse Project)

Packet Pg. 162



Planning Commission August 8, 2017– Agenda Item: 1

Conditional Use Permit Findings

- A. The site is suitable and adequate for the proposed use.
- B. The proposed use and design would not have a substantial adverse effect on traffic circulation and on the planned capacity of the street system.
- C. The proposed use at the location will not adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in vicinity of site, or be detrimental to public health, safety or general welfare.
- D. The design of the project is compatible with existing and proposed development within the district and its surroundings.

Planning Commission August 8, 2017– Agenda Item: 1

Staff Recommendation

Adopt Resolution approving the Conditional Use Permit

Planning Commission August 8, 2017– Agenda Item: 1

Conditional Use Permit Findings

- A. The site is suitable and adequate for the proposed use.
- B. The proposed use and design would not have a substantial adverse effect on traffic circulation and on the planned capacity of the street system.
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- D. The design of the project is compatible with existing and proposed development within the district and its surroundings.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: August 8, 2017

PREPARED BY: John Baty, Principal Planner/Development Services
APPROVED BY: Jennifer Carman, Community Development Director

ZONING CODE UPDATE PLANNING COMMISSION WORKSHOP SCHEDULE

RECOMMENDATION(S)

Select dates for three Zoning Code Update Workshops.

BACKGROUND:

On June 27, 2017, the Planning Commission was presented with several tentative dates for three workshops on the Zoning Code Update.

With the Public Review Draft Zoning Code anticipated to be published by Tuesday, August 15, 2017, staff is proposing the following workshop dates:

- Workshop #1: August 29, 2017
- Workshop #2: September 12 or 19, 2017
- Workshop #3: September 26, 2017 or October 3, 2017

Workshops on non-standard Planning Commission days (August 29th, September 19th, and October 3rd) would begin at 4:00 p.m.

Workshops on September 12th and 26th would begin at 3:00 p.m. and end by 7:00 p.m.

CEQA (California Environmental Quality Act):

Not a Project under CEQA per Government Code Section 15061(b)(3), because “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.”

LINKS/ATTACHMENTS:

CITY OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES

CP 03-02

SUBJECT: Ex Parte Contacts

EFFECTIVE DATE: November 5, 2003, REVIEWED JULY 18, 2007

ORIGINATING DEPARTMENTS: City Attorney

INTRODUCTION:

In addition to its legislative functions, the City Council, or its subordinate boards and commissions, may be called upon to act in a quasi-judicial capacity. "Quasi-judicial" means proceedings in which a property interest is at stake, and the body is charged with applying legal standards to a specific factual situation. Common quasi-judicial proceedings in the City include issuance of discretionary land use permits, rent control hearings, and appeals of all kinds.

In quasi-judicial proceedings, due process principles apply. Due process requires that participants be afforded a meaningful opportunity to prepare and be heard before an impartial decision maker, and that the decision be made on the record before the decision maker. Receipt of information outside the quasi-adjudicative hearing may deprive participants of due process, as the decision-maker may be basing his or her decision on evidence outside of the administrative record, and/or not be impartial. In order to ensure due process, the Council hereby adopts the following rules.

POLICY:

Council members, or members of any appropriate subordinate body, may discuss with any member of the public or listen to discussion of the facts of any quasi-judicial matter while such matter is pending before the City or such subordinate body, if the following guidelines are followed. (Matters involving permits are pending before a city agency, board or commission when an application for a permit has been filed with the appropriate City department; otherwise a matter is pending when the appropriate notice of appeal has been filed.)

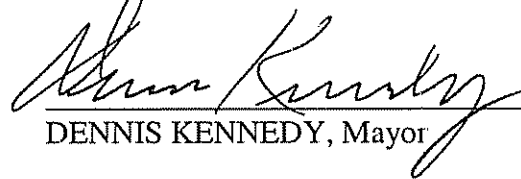
1. The fact of such discussions, and any content of such discussion which is germane to the pending matter, should be disclosed on the record at the beginning of the public hearing prior to the taking of any statements from the public or permit applicants.

2. Council members may attend noticed public hearings before subordinate boards and commissions but should not comment or engage in any discussion at such hearings. Information and evidence gained by Council members via their attendance at noticed public hearings before subordinate boards and commissions need not be disclosed at later Council consideration of the same or related matter.

3. Council members and appropriate members of subordinate bodies may visit sites and properties that are subject of pending proceedings, as long as the fact of such visits and any observations which are germane to the subject matter of the proceeding are disclosed on the record at the beginning of the public hearing prior to the taking of any statements from the public or permit applicants.

This policy is meant to augment, not supplant, any other legal obligations Council members or members of subordinate boards and commissions have regarding such contacts, including but not limited to disclosure of conflicts of interest under the Political Reform Act, Government Code section 81000 *et seq.*, and/or adherence to open meeting laws such as the Ralph M. Brown Act, Government Code section 54950 *et seq.*

APPROVED:



DENNIS KENNEDY, Mayor

Communication: Legal Presentation: Land Use Overview (OTHER BUSINESS)

Legal Overview

LAND USE- BROWN
ACT - PUBLIC
RECORDS ACT –
POLITICAL REFORM
ACT – SUBDIVISION
MAP ACT

PLANNING
COMMISSION -
AUGUST 8, 2017

City's Power to Regulate Land Use

- ▶ Land use and zoning regulations are derivative of a City's general police power.
- ▶ Power to protect the public health, safety and welfare of its residents.
- ▶ "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." Cal. Const. at. XI, section 7.
- ▶ Primary responsibility for making land use and planning decisions rests with the mayor and city council members.
- ▶ May delegate some functions to staff or advisory bodies

Planning Commission

- ▶ The planning commission is a permanent committee made up of five or more individuals who have been appointed by the city council to review and act on planning and development matters.
- ▶ Must act in the public interest

Government Code Section 65101

Morgan Hill Municipal Code §2.36.040

- A. Perform all the functions assigned to the commission by the subdivision and zoning ordinances (Titles [17](#) and [18](#) of this code) of the city, and all general laws of the state of California;
- B. Serve as an advisory body to the city council on matters related to city growth and development and on such other matters as may be requested by the council;
- C. Promote public interest in and understanding of the subdivision and zoning ordinances of the city, and also of all master plans and other official plans and regulations pertaining to planning which have been approved officially by the city council;
- D. Review and advise the city council on all proposed amendments to [Title 17](#), Subdivisions, and [Title 18](#), Planning and Land Use Regulations;
- E. Approve or disapprove application for designation of cultural resources and historic districts pursuant to [Chapter 18.75](#) of this code, or as amended;
- F. Approve or disapprove permits sought to remove or demolish a cultural resource, cultural resource site or historic district pursuant to [Chapter 18.75](#) of this code, or as amended.

Planning Commission's Role Decides or Recommends

Decides

- Conditional Use Permit (§18.54.050)
 - ▶ Extension of CUP (§18.54.070)
 - ▶ Revocation hearing (§18.54.090)
- Variances (Chapter 18.60)
- Approving, conditionally approving or denying the application for tentative map approval of subdivisions
- Award of allotments (Chapter 18.78) through RDCS
- Consideration of a Historical Resource Demolition or Relocation Permit application (Chapter 18.75)
- Appeals of action taken by the Community Development Director on TUP (§18.54.120), Downtown Administrative Use Permits (§18.54.260), and Commercial Administrative Use Permits (§18.54.320) shall be heard by the planning commission

Recommends

- ▶ Interim Use permit (§15.54.220)
- ▶ Recommended Amendments to the Zoning Code (Chapter 18.62)
- ▶ Recommend to the City Council any revisions to the competition criteria and/or point values for RDCS
- ▶ Consideration of proposed development agreements (Chapter 18.80)

Planning commission actions can be appealed to the City Council

Quorum

- ▶ Quorum: Majority of the members present
- ▶ Number of votes needed to pass an item: majority of those voting

California Environmental Quality Act (“CEQA”)

CEQA requires that the City consider the environmental consequences of its actions before approving plans or policies or otherwise committing to a course of action on a project.

What is a Project?

Project means any activity that has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment and

- ▶ Is directly undertaken by a public agency;
- ▶ Receives financial assistance from a public agency; or
- ▶ **Involves the issuance of a lease, permit, license, certificate, or other entitlement for use by a public agency**

Lead Agency

- ▶ Lead Agency means the public agency that has the principal responsibility for carrying out or approving a proposed project.

Responsible Agency

- ▶ Responsible Agency means a public agency other than the lead agency that has responsibility for carrying out or approving the project.
 - ▶ Role as responsible agency is different than role as lead agency.
 - ▶ Timely respond to lead agency requests for information or comments during environmental review process
 - ▶ Approving or acting on proposed project
 - ▶ Review and consider environmental review performed by lead agency
 - ▶ Responsible Agency bound by Lead Agency determination to prepare an EIR, MND or ND unless challenged through litigation – EIR or ND is presumed valid
 - ▶ Add mitigation measures related to portion of project for which City is issuing permit if necessary

Initial Study

- ▶ If a proposed activity is a project and is not exempt from CEQA, then the city ordinarily must prepare an "initial study" to determine whether the project will have a significant effect on the environment
- ▶ Substantial Evidence in the record
- ▶ Fair argument standard

EIR/MND/ND/CE

- ▶ **Negative Declaration:** no substantial evidence before the city that shows that the project may have a significant impact on the environment
- ▶ **Mitigated Negative Declaration:** potentially significant impacts, but revisions made to the project to reduce impacts to a level of insignificance.
- ▶ **Environmental Impact Report** is required whenever it can be fairly argued on the basis of substantial evidence in light of the whole record before the city that the project may have a significant impact on the environment.
- ▶ **Categorical exemption:** List of projects that under normal circumstances will have no significant effect on the environment and would thus be exempt from CEQA
- ▶ **Statutory exemptions:** The legislature has exempted certain types of projects from CEQA

Types of governmental action

Legislative actions

- ▶ *Legislative actions*: adoption of generally applicable laws or basic policies and include adoption and amendment of general and specific plans and zoning ordinances; enactments by a legislative body that set forth the standards controlling approval of or conditions on individual development projects
 - ▶ Examples of legislative actions include adoption and amendment of general and specific plans and of zoning ordinances
 - ▶ Findings are not generally required
 - ▶ Exception: Findings required for Development Agreement approval

Types of governmental action

Quasi-judicial

- ▶ *Quasi-judicial action* is the application of preexisting laws or standards to a specific project; involves the discretionary approval or denial of permits for individual development projects,
 - ▶ Examples include use permits, variances, the discretionary imposition of conditions on such approvals, and subdivision tentative map approvals .
 - ▶ Procedural due process requirements generally apply (Notice and hearing)

Public Hearing

- ▶ A public hearing is a type of public meeting
- ▶ Some actions are required to be preceded by a public hearing involving procedural requirements, for example specific noticing, opening the hearing, presentation, discussion, testimony, closing the hearing
- ▶ Legislative
 - ▶ General Plan adoption and amendment
 - ▶ Zoning change
- ▶ Quasi-judicial
 - ▶ Conditional use permit
 - ▶ Tentative Map for Subdivision

Findings

- ▶ When are findings required?
 - ▶ Required when acting in a quasi-judicial capacity, and when required by local ordinance or a state statute
 - ▶ Findings are not required for legislative decisions such as zoning ordinances
- ▶ Why are findings important?
 - ▶ Findings are the basis for judicial review: Court must scrutinize record and determine whether substantial evidence supports administrative agency's findings and whether these findings support agency's decision
- ▶ Findings must be based on evidence in the record

Proposed land use development must be consistent with

General Plan

City is legally required to prepare and adopt "...a comprehensive, long term general plan for the physical development of the...city, and of any land outside its boundaries..." Gov. Code section 65300.

Specific Plan

City may also adopt one or more specific plans for the systematic implementation of the general plan for all or part of the area covered by the general plan. Govt C §65450.

Zoning

"zoning is a separation of the municipality into districts, and the regulation of buildings and structures, according to their construction, and the nature and extent of their use, and the nature and extent of the uses of land."

General Plan

Each General Plan must include the following elements:

1. Land Use Element;
2. Circulation Element;
3. Housing Element;
4. Conservation Element;
5. Open Space Element;
6. Noise Element;
7. Safety Element; and
8. An environmental justice element (if the city, has a disadvantaged community as defined)

Government Code Section 65302

Specific Plan

- ▶ Govt C § 65451.
- ▶ A specific plan must contain certain specified details relating to land uses, major infrastructure, development and conservation standards, an implementation program, and a statement of relationship to the general plan

Zoning Districts

- ▶ OS Open Space District
- ▶ RE Residential Estates District
- ▶ R-1 Single-Family Low Density Residential District
- ▶ R-1 Single-Family Medium-density Residential District
- ▶ R-2 Medium-Density Residential District
- ▶ R-3 Medium-Density Residential District
- ▶ R-4 High-Density Residential District
- ▶ Public Facilities District
- ▶ CN Neighborhood Commercial District
- ▶ CG General Commercial District
- ▶ GF Downtown Ground Floor Overlay District
- ▶ CC-R Central Commercial/Residential District
- ▶ CS Service Commercial District
- ▶ CL-R Light Commercial/Residential District
- ▶ HC Highway Commercial District
- ▶ TUD Theme Unit Development District
- ▶ PD Planned Development Overlay District
- ▶ CO Administrative Office District
- ▶ ML Light Industrial District
- ▶ MG General Industrial District
- ▶ MC Campus Industrial District
- ▶ MO Office Industrial District
- ▶ (S) Seismic Combining District
- ▶ (H) Hillside Combining District
- ▶ Geologic Combining District
- ▶ (C) Conditional Zoning

Nonconforming Use

Morgan Hill Municipal Code §18.14.320 / §18.58.040

The term "nonconforming use" is applicable to use of buildings, structures and uses of land.

Defined as a use which, when commenced, complied with the use regulations of the district in which such use was commenced, and which does not conform to the presently existing use regulations of the district where the use is being conducted or carried on.

May be maintained indefinitely

The code provides for zoning conformity when a nonconforming **use** is discontinued for a certain period

Vested Rights

After a property owner has obtained valid permits necessary for the proposed structure and performed substantial work and incurred substantial liabilities in good faith reliance on those permits, the property owner acquires a vested right to complete construction in accordance with the terms of the permit, notwithstanding changes in applicable land use regulations.

- ▶ Terminating the right to continue an established use is far more serious than the interference a property owner experiences when denied a conditional use permit in the first instance.

Conditional Use Permit - Chapter 18.54

§18.54.040 - Application—Planning commission considerations.

In considering an application for a conditional use, the planning commission shall consider the following:

- A. The suitability and adequacy of the site for the proposed use;
- B. The estimated effect of the proposed use or design on traffic circulation and on the planned capacity of the street system;
- C. The compatibility of design with adjacent uses within the district and its surroundings;
- D. The applicability and conformity of the use with provisions of [Chapter 8.40](#), hazardous materials, as existing or hereafter amended.

Findings Required to Approve the Application

The planning commission shall approve the application only if it finds that:

1. The site is suitable and adequate for the proposed use;
2. The proposed use and design would not have a substantial adverse effect in traffic circulation and on the planned capacity of the street system;
3. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site, or
 - c. Be detrimental to public health, safety or general welfare;
4. The design of the project is compatible with existing and proposed development within the district and its surroundings.

CUP- Length of Time

§18.54.070 - Expiration—Extensions

Following commencement of *use* and except where the permit has been approved for a specified period, the effectiveness of the permit shall be for an indefinite period. For the purpose of this section, "commencement of *use*" means when actual substantial continuous activity has taken place upon the land pursuant to the permit, or, in the event the erection of a structure or structures is involved, when sufficient building activity has occurred to cause vested rights to accrue under the general principles of state law relating to the vesting of rights in connection with building permits generally.

§18.54.080 - Permits attached to land.

A conditional use permit shall be considered attached to and running with the land. This means that it will remain valid even if the property changes owners.

Variance versus exception

- ▶ **Variance** is a discretionary permit that allows for deviation from physical development standards in the Zoning Code. The City may grant a Variance only when the strict application of development standards creates a unique hardship due to unusual circumstances associated with the property. Typically within Planning Commissions Jurisdiction.
- ▶ **Exception** allows for small deviations from development standards to accommodate projects which meet the needs of property owners, are consistent with the purpose of the Zoning Code and General Plan, and do not negatively impact neighboring properties or the community at large. Typically handled at the Administrative level.

RLUPIA (Religious Land Use and Institutionalized Persons Act)

- ▶ Prohibits government from imposing substantial burdens on religious exercise unless there exists a compelling government interest and the burden is the least restrictive means of satisfying the government interest.
- ▶ Applies when “individualized assessments of the proposed uses for the property involved.”
- ▶ Denial of permit in industrial area found to violate the act. Int'l Church of Foursquare Gospel v. City of San Leandro, 673 F.3d 1059 (9th Cir. 2011)
- ▶ Denial of permit in agricultural area found to violate the act. Guru Nanak Sikh Soc. of Yuba City v. Cty. of Sutter, 456 F.3d 978 (9th Cir. 2006)
- ▶ Does not apply to neutral law of general applicability
 - ▶ San Jose Christian Coll. v. City of Morgan Hill: ordinance merely required college to submit complete application, and it was not at all apparent that application would be denied were college to comply.

Development Agreements

Government Code sections 65864 – 65869.5

Chapter 18.80 of Municipal Code

- ▶ An agreement between the City and a property owner in which the parties agree to “freeze” all rules, regulation, and policies that are in place as of the execution of the agreement.
- ▶ The planning commission shall hold a noticed public hearing to consider comments on the development agreement, makes recommendation to the city council.
- ▶ The city council holds a noticed public hearing prior to adoption of any development agreement.
- ▶ Approval of Development Agreement is by ordinance

Due Process in Local Government

“No person shall be ... deprived of life, liberty, or property, without due process of law”

Fifth Amendment to the U.S. Constitution

Section. 1. “... nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Fourteenth Amendment to the U.S. Constitution

SEC. 7. (a) “A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws...”

California Constitution - Article 1, Declaration of Rights

What does “Due Process” Mean?

Before government may constitutionally take an action that affects a protected interest, the holder of that interest is entitled to

1. reasonable *notice* and
2. a reasonable *opportunity to be heard*,
3. before *an impartial decisionmaker*

An Impartial Decisionmaker

- ▶ Pre-existing views on policy issues related to a matter do not automatically create disqualifying bias.
- ▶ Make decisions based on a fair examination of the entire record, and only the record.
- ▶ Abstain when specific bias against person or subject will color the decision-making process.

Disclosures of Individual (Ex Parte) Contacts - Council Policy

- ▶ Commissioners may discuss with any member of the public the facts of any quasi-judicial matter while such matter is pending before the Commission if the facts of such discussion and the content of the discussion is disclosed on the record at the beginning of the public hearing

Continued Matters

- ▶ If a decision is to be rendered at a separate meeting from the meeting during which the quasi-judicial public hearing took place, a member of the legislative body who was absent during the public hearing should not participate in the decision unless that member has familiarized him or herself with the evidence received during the hearing by reviewing the minutes or a recording of the proceedings.
- ▶ The legislative body should note that review on the record.

The Brown Act: “Open and Public”

“All **meetings** of the **legislative body** of a local agency

shall be **open and public**, and

all persons shall be permitted to attend any meeting of the legislative body of a local agency,

except as otherwise provided in this chapter.”

Government Code § 54953(a)

The Brown Act Applies to “Legislative Bodies”

- ▶ What is a “legislative body?”
 - ▶ Governing body of the agency
 - ▶ A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body.

Government Code §54952

Meetings

- ▶ Elements:
 - ▶ Congregation of a majority
 - ▶ Same time and place
 - ▶ To hear, discuss or deliberate or take action on any item
 - ▶ Within the subject matter jurisdiction of the legislative body

Government Code § 54952.2

Serial Meetings Are Illegal

- ▶ What is an illegal serial meeting?
 - ▶ A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, **directly or through intermediaries**, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.
 - ▶ Telephone or email chain (Daisy-chain or hub-and-spoke)
 - ▶ Common email practices can lead to a violation of the Brown Act: **DO NOT HIT “REPLY ALL” AND DO NOT FORWARD EMAILS**

Government Code § 54952.1

Meeting Exceptions

- ▶ When is a meeting not a “meeting?”
 - ▶ **Individual contacts** in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.
 - ▶ **Conferences and seminars** open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency
 - ▶ **Community meetings** provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.
 - ▶ **Another body of the agency** provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency
 - ▶ **Social or ceremonial events** provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency

Agenda Requirements

- ▶ At least **72** hours prior to a regular meeting, the body must post an agenda containing a brief general description of each item to be discussed or transacted at the meeting
- ▶ The purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body.
- ▶ No discussion or decision on items not on the posted agenda
- ▶ Agendas must be publicly accessible and distributed to those who request copies at least **72** hours in advance

Agenda Requirements— Exceptions

- ▶ Brief response to questions from public
- ▶ Clarification/reference to staff
- ▶ Brief announcements/report on activities
- ▶ Requests for future report
- ▶ Placement of items on future agenda

Joint Meetings

- ▶ Subject matter is restricted to general policy and some limited legislative matters due to the separate, respective role of each legislative body
 - ▶ Challenging when Planning Commission is the recommending authority for the decision to be ultimately made by the City Council
- ▶ No joint meeting for Projects (quasi-judicial matters).
 - ▶ Planning Commission is the deciding body and
 - ▶ City Council is the body designated to hear any appeal
- ▶ If two bodies conduct a joint meeting, each body should notice the meeting as a joint meeting of the two bodies.

Public Participation

- ▶ Every agenda for a regular meeting shall provide an opportunity for members of the public to directly address the legislative body on any item under the subject matter jurisdiction of the body.
- ▶ For any item which is already on the agenda, the public must be given the opportunity to comment before or during the legislative body's consideration of the item
- ▶ Not required to "register"
- ▶ Rules of decorum permitted
- ▶ Time limits okay
- ▶ Recording permitted
- ▶ Public agencies may not prohibit public criticism of the policies, procedures, programs or services of the agency, or of the acts or omissions of the legislative body

Public Comment versus Public Hearing

- Public Comment: Members of the public have a right to address the city council or other legislative body at regular and special meetings. Govt C §54954.3(a).
- ▶ Public Hearing: Certain actions taken by the Planning Commission are required by law to hold a public hearing to which due process applies.

Enforcement & Consequences

- ▶ Notice and opportunity to cure
- ▶ Civil action for invalidation of actions
- ▶ Attorneys fees and costs
- ▶ Criminal prosecution
 - ▶ Action taken at a meeting
 - ▶ In violation of the act
 - ▶ Intent to deprive public of information