



**LAFCO MEETING  
AGENDA  
Wednesday, April 3, 2013  
1:15 PM**

**Board Meeting Chambers  
70 West Hedding Street, First Floor, San Jose, CA 95110**

**CHAIRPERSON: Mike Wasserman • VICE-CHAIRPERSON: Susan Vicklund Wilson  
COMMISSIONERS: Pete Constant, Sequoia Hall, Margaret Abe-Koga, Linda LeZotte, Joe Simitian  
ALTERNATES: Johnny Khamis, Yoriko Kishimoto, Terry Trumbull, Cat Tucker**

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**NOTICE TO THE PUBLIC**

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- If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than \$250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than \$250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings.
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- Any person or group lobbying the Commission or the Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. Any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. For forms and information:  
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[http://www.santaclara.lafco.ca.gov/sclafcopolicies\\_annex&reorg\\_home.html](http://www.santaclara.lafco.ca.gov/sclafcopolicies_annex&reorg_home.html)
- Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commissioners less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office, 70 W. Hedding Street, 11<sup>th</sup> Floor, San Jose, California, during normal business hours.
- In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408) 299-6415, TDD (408) 993-8272.

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COMMISSIONERS: Pete Constant, Sequoia Hall, Margaret Abe-Koga, Linda LeZotte, Joe Simitian, Mike Wasserman, Susan Vicklund Wilson  
ALTERNATE COMMISSIONERS: Johnny Khamis, Yoriko Kishimoto, Terry Trumbull, Cat Tucker  
EXECUTIVE OFFICER: Neelima Palacherla

**1. ROLL CALL**

**2. PUBLIC COMMENTS**

This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on this agenda. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

**3. APPROVE MINUTES OF FEBRUARY 6, 2013 LAFCO MEETING**

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**PUBLIC HEARING**

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**4. MORGAN HILL URBAN SERVICE AREA (USA) AMENDMENT 2012  
MONTEREY – SOUTH OF WATSONVILLE**

**Possible Action:**

- a. Open public hearing and receive public comments.
- b. Close public hearing.
- c. Consider the request for USA amendment and the staff recommendation.

**5. SPECIAL DISTRICTS SERVICE REVIEW DRAFT REPORT: PHASE 1**

**Possible Action:**

- a. Consider the Draft Report for the Special Districts Service Review: Phase 1.
- b. Accept public comments.
- c. Direct staff to revise the Report as necessary to address comments received through April 5th and set June 5, 2013 as the date for the public hearing to consider adoption of the Final Report.

**6. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2014**

**Possible Action:**

- a. Open public hearing and receive public comments.
- b. Close public hearing.
- c. Adopt the Proposed LAFCO Budget for Fiscal Year 2013-2014.
- d. Find that the Proposed LAFCO Budget for Fiscal Year 2014 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
- e. Authorize staff to transmit the Proposed LAFCO Budget adopted by the Commission including the estimated agency costs as well as the LAFCO public hearing notice on the adoption of the Fiscal Year 2014 Final Budget to the cities, to the special districts, to the County, to the Cities Association and to the Special Districts Association.

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## ITEMS FOR ACTION / DISCUSSION

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**7. LEGISLATIVE COUNSEL'S OPINION ON THE APPLICABILITY OF THE GANN APPROPRIATIONS LIMIT TO HEALTH CARE DISTRICTS**

Possible Action: Accept report and provide direction to staff, as necessary.

**8. UPDATE ON GUADALUPE COYOTE RESOURCE CONSERVATION DISTRICT'S IMPLEMENTATION OF THE RECOMMENDATIONS OF LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW REPORT**

For Information Only.

Supplemental Information #1: [Letter from GCRC D Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review Report \(dated March 27, 2013\)](#)

**9. AGENCY REPORT OF PUBLIC OFFICIAL APPOINTMENTS: FORM 806**

For Information Only.

**10. EXECUTIVE OFFICER'S REPORT**

**10.1 UPDATE ON SPECIAL STUDY ON IMPACTS OF THE POTENTIAL DISSOLUTION OF THE SARATOGA FIRE PROTECTION DISTRICT AND ANNEXATION OF ITS TERRITORY TO SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT**

For Information Only.

**10.2 CALAFCO ANNUAL CONFERENCE AUGUST 28-30**

Possible Action: Authorize commissioners and staff to attend the Annual Conference and direct that associated travel expenses be funded by the LAFCO Budget for Fiscal Year 2014.

**11. PENDING APPLICATIONS / UPCOMING PROJECTS**

**11.1 West Bay Sanitary District SOI Amendment and Annexation**

**12. COMMISSIONER REPORTS**

**13. NEWSPAPER ARTICLES / NEWSLETTERS**

**14. WRITTEN CORRESPONDENCE**

**15. ADJOURN**

Adjourn to regular LAFCO meeting on Wednesday, June 5, 2013, at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.





**LAFCO MEETING MINUTES  
WEDNESDAY, FEBRUARY 6, 2013**

**CALL TO ORDER**

Chairperson Mike Wasserman called the meeting to order at 1:18 p.m.

**1. ROLL CALL**

The following commissioners were present:

- **Chairperson Mike Wasserman**
- **Commissioner Pete Constant**
- **Commissioner Sequoia Hall**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Linda LeZotte**
- **Alternate Commissioner Johnny Khamis**
- **Alternate Commissioner Yoriko Kishimoto**
- **Alternate Commissioner George Shirakawa**
- **Alternate Commissioner Terry Trumbull**
- **Alternate Commissioner Cat Tucker**

The following were absent:

- **Vice Chairperson Susan Vicklund Wilson**
- **Commissioner Joe Simitian**

The following staff members were present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Assistant Executive Officer Dunia Noel**
- **LAFCO Counsel Melanie Donnelly**

**2. INDEPENDENT SPECIAL DISTRICTS REPRESENTATION ON LAFCO**

The Commission noted the report.

**3. WELCOME NEW LAFCO COMMISSIONERS**

**Chairperson Wasserman** welcomed the new LAFCO commissioners.

**4. PUBLIC COMMENT**

There was no public comment.

5. **APPROVE MINUTES OF DECEMBER 12, 2012 LAFCO MEETING**

The Commission approved the minutes of the December 12, 2012 LAFCO meeting.

Motion: Constant

Second: Abe-Koga

**MOTION PASSED**

AYES: Constant, Abe-Koga, Shirakawa, Trumbull, Wasserman

NOES: None

ABSTAIN: Hall, LeZotte

ABSENT: None

6. **SARATOGA URBAN SERVICE AREA AMENDMENT 2013**

Ms. Palacherla presented the staff report. She added that public hearing notices were mailed to property owners and registered voters in the urban service area (USA) amendment areas, and to property owners and registered voters within 300 feet of the amendment areas. She stated that the notice was published in a newspaper, on the LAFCO website and posted on the bulletin board at the County Government Center. She reported that staff has received inquiries from property owners about the implications of exclusion from the USA. She noted that the Commission has been provided with copies of emails from a property owner on On Orbit Drive who is opposed to the USA retraction.

**Commissioner LeZotte** expressed concern that the USA amendment application is being considered even though the City has not complied with a prior condition of approval. In response to an inquiry by **Commissioner LeZotte**, Ms. Palacherla informed that six to twelve months is sufficient time for the City to prepare a plan and timeline for the annexation.

In response to an inquiry by **Alternate Commissioner Kishimoto**, Ms. Palacherla advised that the City's ability to provide services and facilities to an area is one of the criteria for evaluating an USA amendment proposal. She added that the City has indicated that it is unable to maintain the roads in the area.

This being the time and place for the public hearing, **Chairperson Wasserman** declared the public hearing open.

Chuck Page, Councilmember, City of Saratoga, expressed appreciation to the Commission and staff for recognizing the City's goal of maintaining open space. He indicated that the annexation of the Garrod property and the City's acquisition of the Congress Springs Quarry property are part of that goal. Referring to an inquiry by **Commissioner LeZotte**, Mr. Page indicated that the City did not prepare a plan and timeline for annexation of the larger island because it is ineligible for the streamlined annexation process. Referring to an inquiry by **Alternate Commissioner Kishimoto**, he stated that the island is being excluded from Saratoga's USA boundary because the City cannot afford the liability of a poorly built road.

Howard Miller, Councilmember, City of Saratoga, noted that City staff is available to answer any questions. He stated that the City will develop a plan and timeline for annexation of the larger island. He stated that since it is ineligible for the streamlined annexation process, the outcome may be uncertain. He requested the Commission to approve the inclusion of the Congress Springs Quarry property into Saratoga's USA.



Motion: LeZotte

Second: Constant

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Shirakawa, Trumbull, Wasserman

NOES: None

ABSTAIN: None

ABSENT: None

**Alternate Commissioner Kishimoto** suggested that in developing policies, one of the conditions should include the dedication of open space lands with an open space easement recorded on them. **Commissioner Hall** expressed agreement.

The Commission directed staff to review LAFCO's policies regarding city annexations of open space lands, including the dedication of open space easements, and propose revisions as necessary, for Commission consideration.

Motion: Hall

Second: LeZotte

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Shirakawa, Trumbull, Wasserman

NOES: None

ABSTAIN: None

ABSENT: None

**7. UPDATE ON GUADALUPE COYOTE RESOURCE CONSERVATION DISTRICT'S IMPLEMENTATION OF THE RECOMMENDATIONS OF LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW REPORT**

Dunia Noel, Assistant LAFCO Executive Officer, presented the staff report.

**Commissioner Hall** commended the Guadalupe-Coyote Resource Conservation District for being proactive in initiating changes in pursuit of its mission.

The Commission accepted the report.

Motion: Constant

Second: Hall

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Shirakawa, Trumbull, Wasserman

NOES: None

ABSTAIN: None

ABSENT: None

**8. EXECUTIVE OFFICER'S REPORT**

**8.1 UPDATE ON SPECIAL DISTRICTS SERVICE REVIEW**

Ms. Noel presented the staff report.

The Commission accepted the report and appointed Commissioner Linda LeZotte to serve on the Special Districts Service Review Technical Advisory Committee.

Motion: Constant

Second: Trumbull

**MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Shirakawa, Trumbull, Wasserman

NOES: None

ABSTAIN: None

ABSENT: None

## **8.2 FINANCE COMMITTEE FOR FISCAL YEAR 2013-2014 LAFCO BUDGET**

Ms. Noel presented the staff report.

The Commission established the Finance Committee to work with staff to develop and recommend the proposed FY 2013-2014 LAFCO budget for consideration by the full Commission, and appointed Chairperson Wasserman, and Commissioners Constant and Hall to serve on the Committee.

Motion: Constant Second: Trumbull

### **MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Shirakawa, Trumbull, Wasserman

NOES: None ABSTAIN: None ABSENT: None

The Commission noted the report on Item 8.3.

## **8.4 2013 CALAFCO STAFF WORKSHOP**

Ms. Noel presented the staff report.

**Commissioner Constant** expressed appreciation to staff for continuing to participate in the CALAFCO workshops and recognized the value of the events for both staff and the Commission.

The Commission authorized staff to attend the 2013 CALAFCO Staff Workshop and authorized travel expenses funded by the LAFCO budget.

Motion: Constant Second: Abe-Koga

### **MOTION PASSED**

AYES: Constant, Hall, Abe-Koga, LeZotte, Shirakawa, Trumbull, Wasserman

NOES: None ABSTAIN: None ABSENT: None

## **9. PENDING APPLICATIONS / UPCOMING PROJECTS**

Ms. Palacherla informed that there are two pending applications. She stated that the Morgan Hill Urban Service Area Amendment application may be heard in April 2013 if the City completes the filing requirements in a timely manner, and that the West Bay Sanitary District Sphere of Influence Amendment and Annexation remains as an incomplete application.

## **12. WRITTEN CORRESPONDENCE**

There were none.

13. **ADJOURN**

The meeting was adjourned at 2:02 p.m. to the next meeting on Wednesday, April 3, 2013 in the Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

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Mike Wasserman, Chairperson  
Local Agency Formation Commission of Santa Clara County

By: \_\_\_\_\_  
Emmanuel Abello, LAFCO Clerk

**LAFCO MEETING:** April 3, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** MORGAN HILL URBAN SERVICE AREA (USA) AMENDMENT 2012  
MONTEREY – SOUTH OF WATSONVILLE

**STAFF RECOMMENDATION**

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**CEQA ACTION**

Denial of the project does not require a CEQA action. In order to approve the project, LAFCO as a Responsible Agency under CEQA, must take the following actions regarding the Mitigated Negative Declaration for this project:

1. Find that the *Initial Study* and *Mitigated Negative Declaration* approved by the City of Morgan Hill on December 7, 2011 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.
2. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the *Initial Study* and *Mitigated Negative Declaration*.
3. Find that a monitoring program was approved by the City of Morgan Hill as Lead Agency and that the monitoring program ensures compliance with the mitigation measures identified in the *Mitigated Negative Declaration* that would mitigate or avoid significant impacts associated with the urban service area amendment, over which LAFCO has responsibility.

**PROJECT ACTION**

- 1 a. Option 1: Deny the Urban Service Area (USA) amendment request.
- 1.b. Option 2: Approve inclusion of a smaller area consisting of APNs 779-040-056, 001, 003 and 004 within the City's USA. The Santa Clara Valley Water District Parcel (APN 779-04-067) will remain outside the City limits and USA and will serve as a natural buffer to limit impacts to adjacent agricultural lands and to limit growth inducing impacts on adjacent unincorporated lands.

2. Request that the City of Morgan Hill, through its current General Plan Update process, consider the vast availability of vacant lands within its existing boundary and address comprehensively the necessity, timing and location of future expansions such that an expansion does not adversely impact surrounding agricultural lands or open space lands, and such that it results in orderly growth that facilitates efficient service delivery.
3. Request that the City of Morgan Hill, through its General Plan Update process, examine its inventory of vacant land and develop targeted strategies that encourage better utilization of vacant lands within its boundary.
4. Request that the City of Morgan Hill submit a report to LAFCO on the progress it has achieved with regard to Recommendations #2 and #3, prior to submitting the next USA expansion proposal to LAFCO.
5. Request that the City of Morgan Hill withhold submitting applications for USA expansion proposals to LAFCO until after the completion of its General Plan Update process and until it has significantly reduced its vacant land inventory to five or fewer years.
6. Direct LAFCO staff to review LAFCO's Urban Service Area Policies and propose revisions as necessary, for Commission consideration.

## **PROJECT DESCRIPTION**

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The City of Morgan Hill is proposing an amendment to its urban service area (USA) in order to include approximately 74.8 acres of land comprising 17 parcels in the vicinity of Watsonville Road and Monterey Road. The area is known as Monterey – South of Watsonville. Seven of the 17 parcels are currently within the Morgan Hill city limits, but located outside of its USA. **Attachment A1** includes a map of the existing and proposed USA boundary. Upon inclusion in the USA and annexation to the City, new residential / commercial development and expansion of an existing religious facility, is proposed on the unincorporated properties.

The City has stated that the USA amendment and eventual annexation would help facilitate more “logical development patterns within the city” and allow fulfillment of the City’s General Plan policies which include “avoiding incompatible land uses and conflicting activities, allowing residential uses in commercial zones, encouraging a variety of commercial and office development to meet the needs of city residents, rehabilitating or replacing run-down blighted buildings and developments, enhancing the visual integrity of the Monterey Road south of Watsonville Road gateway to the city, and encouraging the development of trails along creeks and drainage channels, connecting parks, regional trails, schools, library and other community facilities.”

## **BACKGROUND**

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The City of Morgan Hill Planning Commission reviewed the proposed project at their October 25, 2011 and November 8, 2011 meeting. The Planning Commission voted 6-1 to



recommend denial of the USA expansion and amendments to the General Plan and Zoning designations for the proposed project primarily due to the inconsistency between the proposed designations for the area and the intent of the City's General Plan policies for the area, and also due to impacts regarding infill and agricultural mitigation issues identified by LAFCO. The Planning Commission's recommendation and the application were forwarded to the Morgan Hill City Council for their consideration. The City Council, on December 7, 2011, voted unanimously to approve the urban service area adjustments and general plan and zoning amendment applications for the proposed project and adopted Resolution #6502 to seek LAFCO approval for USA amendment.

The City of Morgan Hill submitted its USA amendment application to LAFCO in October 2012. LAFCO staff reviewed the application materials and determined that some of the materials (i.e., Vacant Lands Inventory and Plan for Services) were insufficient. In February 2013, additional information was submitted by the City which allowed LAFCO staff to process the application.

### **EXISTING AND PROPOSED LAND USES AND DESIGNATIONS**

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The proposed Urban Service Area (USA) amendment application consists of 74.8 acres of contiguous lands. The City of Morgan Hill has referred to the proposed USA amendment area as three sub-areas based on the entity that initiated each application with the City. The areas are as follows:

Area 1: Watsonville-Royal Oaks (Initiated by Royal Oaks Mushrooms)

Area 2: Monterey-City of Morgan Hill (Initiated by the City of Morgan Hill)

Area 3: Monterey-Morgan Hill Bible Church (Initiated by the Morgan Hill Bible Church)

**Attachment A2** includes a map delineating the three areas. For ease of information, this section discusses each area separately. Because the three areas are contiguous to one another, the entire area is analyzed as one application.

#### **AREA 1: WATSONVILLE - ROYAL OAKS**

The proposed USA expansion area known as Watsonville-Royal Oaks area consists of six parcels, totaling approximately 20.7 acres, located in the unincorporated county. Table 1 summarizes the land use information for the Watsonville-Royal Oaks area.

This area is currently undeveloped with the exception of APN 779-04-056 which is the site of Royal Oaks Mushrooms processing facility. APN 779-04-067 is owned by the Santa Clara Valley Water District (SCVWD) for future flood control purposes.

In December 2011, the Morgan Hill City Council amended the City General Plan and land use designations for all the parcels in this area (except the SCVWD parcel) from Single-Family Medium to Non-Retail Commercial. The City Council also adopted a pre-zoning designation for the parcels as listed in Table 1. Upon LAFCO approval of the

USA expansion and city annexation of these lands, the City General Plan and Zoning designations would apply to the properties.

**Table 1: Watsonville - Royal Oaks**

APN	ACRES	EXISTING LAND USE	COUNTY GENERAL PLAN	COUNTY ZONING	CITY GENERAL PLAN	CITY PRE-ZONING
779-04-001	0.11	Undeveloped	Agriculture Medium Scale	A-20 Acre	Non-Retail Commercial	Light Commercial-Residential
779-04-003	0.29	Undeveloped	Agriculture Medium Scale	A-20 Acre	Non-Retail Commercial	Light Commercial-Residential
779-04-004	0.29	Undeveloped	Agriculture Medium Scale	A-20 Acre	Non-Retail Commercial	Light Commercial-Residential
779-04-052	7.38	Undeveloped	Agriculture Medium Scale	A-20 Acre	Multi-Family	R3 / Planned Development
779-04-056	8.19	Mushroom Processing Facility	Agriculture Medium Scale	A-20 Acre	Non-Retail Commercial	Light Commercial-Residential / Planned Development
779-04-067	3.32	Undeveloped	Agriculture Medium Scale	A-20 Acre	Open Space	Open Space

The City has stated that anticipated future development of this area would include a 100-unit multi-family development, a 180-unit senior assisted living facility, and 6,000 square feet of retail space. No information has been provided on the maximum potential development that would be allowed upon annexation under the proposed designations.

**AREA 2: MONTEREY - CITY OF MORGAN HILL**

The proposed USA expansion area known as Monterey-City of Morgan Hill consists of 9 parcels totaling approximately 44.7 acres. Seven of these parcels are located within the city limits of Morgan Hill. Table 2 lists the parcels in this area and summarizes their land use information.

The area is currently developed with the private Oakwood Country School, three single family homes and a few small businesses.

In December 2011, the Morgan Hill City Council amended the City General Plan and land use designations for all the parcels in this area (except for the Oakwood School parcel, APN 779-04-073) from Single Family Medium or Single Family Low to Non-Retail Commercial. The City Council also adopted a pre-zoning designation of Non-Retail Commercial for the parcels as depicted in Table 1. The City retained the General Plan land use designation for the Oakwood School parcel but revised the zoning designation from RE(100,000) to R1(9,000). The City's General Plan and Zoning designations are currently applicable for the seven parcels that are already within Morgan Hill City Limits. Upon LAFCO approval of the USA expansion and city annexation, the City General Plan and Zoning designations would become effective for the other two properties.

The City has stated that the likely future development of this area would include 64,600 square feet of commercial and personal services, 19,400 square feet of extensive retail, 11,000 square feet of office and 60 multi-family dwelling units in addition to an

approved expansion of the existing school from 347 students to 776 students. It is not clear how much of this development would take place on the two parcels currently located outside the city limits. The City has not provided information on the maximum potential development that could be allowed in this area under the proposed designations.

**Table 2: Monterey - City of Morgan Hill**

APN	ACRES	EXISTING LAND USE	COUNTY GENERAL PLAN	COUNTY ZONING	CITY GENERAL PLAN	CITY PRE-ZONING
779-04-005*	0.37	Commercial (tool supply)	Agriculture Medium Scale	N/A	Non-Retail Commercial	Light Commercial-Residential
779-04-010	1.38	Commercial (masonry operation)	Agriculture Medium Scale	A-20 Acre	Non-Retail Commercial	Light Commercial-Residential
779-04-015	0.42	Commercial (farming supply, Chrysanthemum Growers Co-op)	Agriculture Medium Scale	A-20 Acre	Non-Retail Commercial	Light Commercial-Residential
779-04-030*	0.57	Single Family Home	Agriculture Medium Scale	N/A	Non-Retail Commercial	Light Commercial-Residential
779-04-032*	0.63	Commercial (Hair Salons)	Agriculture Medium Scale	N/A	Non-Retail Commercial	Light Commercial-Residential
779-04-033*	0.27	Single-Family Home	Agriculture Medium Scale	N/A	Non-Retail Commercial	Light Commercial-Residential
779-04-072*	5.01	Single Family Home	Agriculture Medium Scale	N/A	Non-Retail Commercial	Light Commercial-Residential
779-04-073*	24.59	Oakwood School	Agriculture Medium Scale	N/A	Single Family Medium	R1 (9,000)
779-04-074*	6.11	undeveloped	Agriculture Medium Scale	N/A	Non-Retail Commercial	Light Commercial-Residential

\* Parcels located within city limits of Morgan Hill but outside its USA

**AREA 3: MONTEREY - MORGAN HILL BIBLE CHURCH**

The proposed USA expansion area known as Monterey - Morgan Hill Bible Church consists of two parcels, totaling approximately 9.4 acres of lands located in the unincorporated county. Table 3 summarizes the land use information for the area.

The area is the site of the Morgan Hill Bible Church facility, including surface parking, a sports field, baseball diamond, and volleyball courts.

In December 2011, the Morgan Hill City Council amended the City General Plan for the two parcels from Single Family Low to Public Facilities. The City Council also adopted a pre-zoning designation of Public Facilities for the two parcels.

The City has stated that anticipated future development of this area would include redeveloping the existing 11,600 square feet church and classrooms with approximately 20,000 square feet of the same use.

**Table 3: Monterey - Morgan Hill Bible Church**

APN	ACRES	EXISTING LAND USE	COUNTY GENERAL PLAN	COUNTY ZONING	CITY GENERAL PLAN	CITY PRE-ZONING
779-04-016	3.93	Church Facility	Agriculture Medium Scale	A-20 Acre	Public Facilities	Public Facilities
779-04-061	4.76	Church Facility	Agriculture Medium Scale	A-20 Acre	Public Facilities	Public Facilities

### **SURROUNDING LAND USES**

The proposed USA amendment area is surrounded by incorporated and unincorporated lands with agricultural, residential and commercial land uses. The properties to the north of the USA amendment area across from Monterey Road include agricultural lands and a mobile home community. Single family residential neighborhoods (in the City) and agricultural lands are located to the west of the area across from Watsonville Road. Agricultural lands are located east of the area. A mix of single family residences and agricultural lands are located south of the area.

### **ENVIRONMENTAL ASSESSMENT**

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#### **Initial Study and Mitigated Negative Declaration**

The City of Morgan Hill is the Lead Agency under the California Environmental Quality Act (CEQA) for the proposed Morgan Hill Urban Service Area Amendment. Per City Resolution No. 6502, the City approved a Mitigated Negative Declaration for the proposal on December 7, 2011. The City is requiring mitigation measures to reduce potential significant environmental effects to a less than significant level for biological resources, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, and utilities and service systems. A Mitigation Monitoring and Reporting Program consistent with the Mitigated Negative Declaration was approved by the City as part of the approval of the Mitigated Negative Declaration. The monitoring and reporting program will ensure compliance with the mitigation measures that would mitigate or avoid significant impacts associated with the project. See **Attachment B**.

LAFCO is a Responsible Agency under CEQA for the proposal.

### **CONSISTENCY WITH CITY POLICIES**

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#### **Urban Growth Boundary**

The proposal area is within the City of Morgan Hill's Urban Growth Boundary which was adopted by the City in 1996.

#### **City's Desirable Infill Policy**

Morgan Hill Municipal Code Section 18.78.070 (A) prohibits the City from applying to LAFCO for USA expansions until the amount of undeveloped, residentially developable land within the existing USA is insufficient to accommodate five years' worth of

residential growth beyond that required to accommodate the number of development allotments available in the next competition. The City's Code Section 18.78.070(B) provides exceptions from the above requirement for accommodating development that qualifies as "desirable infill". "Desirable infill" is defined as a tract of land not exceeding twenty acres and abutted on at least two sides by the city or abutted on one side by the city and having two other sides within a quarter-mile of a city boundary, as determined by a perpendicular line drawn from the side of the parcel to the city boundary, and whose inclusion into the urban service area would not unduly burden city services and would beneficially affect the general welfare of the citizens of the city.

The City Council Policy CP 94-02 establishes criteria by which proposals are evaluated to determine if they meet the City's "desirable infill" standard. The policy requires a proposal to meet three criteria to qualify as "desirable infill" in order to be added to the USA. The proposal must 1) meet certain physical / locational criteria such as not exceeding 20 acres, being contiguous to the current USA etc.; 2) satisfy the service criteria and receive a passing score under the City's Residential Development Control System which evaluates whether a necessary facility is currently in place and is of adequate capacity or could be reasonably improved; and 3) provide a benefit to the general welfare of the City's residents by allowing for needed infrastructure or public facilities on the land.

LAFCO does not consider these criteria in evaluating an USA application. Hence LAFCO staff has not analyzed these issues in detail although some general concerns were noted regarding the acreage involved and the community benefit generated.

The City Council Resolution # 6502 seeking LAFCO approval of the USA amendment finds that the Monterey-South of Watsonville USA proposal meets the Desirable Infill Policy and will result in a benefit to the community with the property owner's commitment to provide one-half street improvements along the property frontage on Watsonville Road.

### **CONSISTENCY WITH COUNTY POLICIES**

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The proposal area is inconsistent with County General Plan Policy C-GD 3, which states that urban service areas should include only those areas suitable for urban development by being: reasonably serviceable with public services, relatively free from risks associated with natural hazards, that do not create substantial adverse environmental impacts, and that are not likely to create severe off-site impacts on the surrounding areas or to any natural resource. Please see sections discussing the issues regarding proposed development' location in a 100-year flood plain, impacts to surrounding agricultural lands and potential growth inducing impacts.

The proposal is also only partially consistent with County General Plan policy C-GD 8. Although the area is contiguous to the existing urbanized area, and City is able to provide public services and facilities within 5 years without lessening existing levels of

service, it is inconsistent with the policy because the City has more than a 5 year supply of vacant residential land within its USA. Please see detailed discussion below.

**CONSISTENCY WITH LAFCO POLICIES**

**Availability of Vacant Land within Existing Boundaries**

The City of Morgan Hill has prepared a vacant lands inventory that describes the current supply of vacant land within the existing city limits and USA boundary. **Attachment A3** includes a map depicting the location of vacant land within the City.

LAFCO considers lands vacant when they are undeveloped and/or underutilized and for which no active building permits have been issued. The City of Morgan Hill has indicated that not all such vacant land is available for development and excludes lands 1) that have received allotments through the City’s Residential Development Control System and are planned for development; 2) that have received entitlements such as zoning, development agreements, subdivision approval and may have built an earlier phase of the project; or 3) where the property owner has stated that they have no intention of selling or developing their land.

As seen in Table 4, under the City’s calculation, 276 acres or approximately 25% of the vacant residential land is not available for development for reasons stated above.

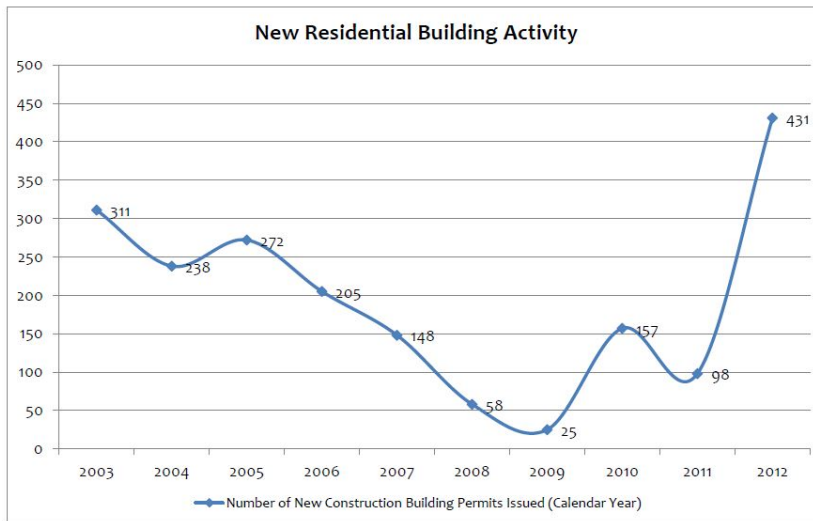
**Table 4: Vacant Lands Inventory**

LAND USE	2012 VACANT ACREAGE (ACRES)			ALLOWED DENSITY (UNITS /ACRE)	MAX. POTENTIAL UNITS BASED ON (A)	MAX. # UNITS BASED ON (C)	AVG. # UNITS BASED ON (C)
	LAFCO DEFINITION (A)	UNAVAILABLE SITES (B)	CITY DEFINITION (A - B = C)				
<b>RESIDENTIAL</b>							
Single-Family Low	331	136	195	1-3	993	585	390
Single-Family Medium	295	78	217	3-6	1,770	1,302	868
Single-Family High	27	25	2	5-10	270	20	16
Residential Estate	216	22	194	0-1	216	194	155
Multi-Family Low	150	0	150	5-14	2,100	2,100	1,350
Multi-Family Medium	41	12	29	14-21	861	609	493
Multi-Family High	3	3	0	21-40	120	0	0
Mixed Use	7	0	7	8-20	70*	70*	49*
Non-Retail Commercial	29	0	29	8-18	261*	261*	203*
<b>Total</b>	<b>1,099</b>	<b>276</b>	<b>823</b>		<b>6,661</b>	<b>5,141</b>	<b>3,524</b>
<b>OTHER</b>							
Commercial	208	26	182	--		--	--
Industrial	396	3	393	--		--	--
Public Facilities	16	6	10	--		--	--
Open Space	204	45	159	--		--	--
<b>Total</b>	<b>1,923</b>	<b>356</b>	<b>1,569</b>				

\* For the purposes of the mixed-use districts (Mixed Use and Non-Retail Commercial) it is assumed that 50% of the acreage would be developed with residential uses).

Based on the various residential zoning designations for the existing vacant lands, a maximum number of 6,661 units could be constructed on the 1,099 acres of vacant land as identified under LAFCO’s definition. The City states that most residential projects build between the low end to middle of the allowed density range. Using the middle of the various density ranges, the City estimates that a total of 3,524 units would be built on 823 acres of vacant residential land within the city.

**Figure 1: 10-Year New Residential Building Activity in Morgan Hill**



As depicted in Figure 1, Morgan Hill issued an annual average of 198 building permits for new housing units in the last 10 years; the City projects that 200 new housing units will be constructed per year. **Based on this rate of residential construction, the City of Morgan Hill has a 33-year to an 18-year supply of vacant residential land within its existing boundaries.**

The City has not provided information on the rate of use of properties designated for commercial use.

State law and LAFCO policies encourage the use of vacant lands within existing boundaries in order to prevent inefficient growth patterns and service responsibilities and unnecessary impacts to agricultural or open space lands. USAs designate those lands needed by a city to accommodate 5 years of growth and when a city with a substantial supply of vacant land wants to include more lands, LAFCO policies require the City to explain why expansion is necessary, why infill development is not undertaken first and how efficient growth patterns will be maintained.

The City has indicated that it currently lacks sufficient market-rate, multi-family housing and only small acreages of vacant land are available with a Non-Retail Commercial designation. Further, the City states that despite the large amount of vacant lands in the City, there are a number of constraints such as size, location, configuration, land use compatibility and environmental sensitivity that limit development opportunities of those lands. And finally, the City states that the USA amendment proposal would

eliminate an unincorporated peninsula; clean up the city's boundaries; minimize confusion over jurisdictional lines; and better address flooding and health and safety issues by extending utilities, eliminating leach fields, and protecting property from damage by making infrastructure improvements in the area.

### **Logical, Orderly and Efficient Boundaries**

The current and proposed boundaries in the USA amendment area are not logical or orderly. The City notes that the inclusion of the properties to the north end near Watsonville Road would help eliminate an unincorporated peninsula. However, the USA expansion proposal also includes APN 779-04-052, which is not part of this peninsula. It appears that the SCVWD parcel (779-04-067) provides a natural buffer between the city parcels and the agricultural lands to its west.

Seven out of the seventeen parcels proposed for inclusion in the City's USA are currently within the City limits. The City has stated that adding these lands to the City's USA would represent orderly boundaries and minimize confusion over jurisdictional lines. These incorporated lands currently receive City services and it is not necessary to add them to the USA in order to change the status of services provided, or to allow development on these incorporated properties. The City has full jurisdiction over these lands. As seen in maps included in **Attachment A**, there are other incorporated lands across Monterey Road that are not located in the City's USA. Extending the City's rationale for logical boundaries, if these lands were also proposed for inclusion in the City's USA, the City's USA would surround unincorporated agricultural lands located south/west of Monterey Road that are currently outside the City limits and USA.

Further, the Monterey- Bible Church area would become contiguous to the City's USA and eligible for inclusion in the City's USA only if the already incorporated lands (Monterey- City of Morgan Hill area) were added to the City's USA. Including the Bible Church properties would in turn make other unincorporated lands adjacent to the City and/or its USA.

### **Growth Inducing Impacts**

The above scenario is an example for the type of leap-frog development that could be triggered, resulting in incremental urbanization of rural lands. Inclusion of the Monterey-South of Watsonville area in the City's USA and its future development / expansion of uses would put development pressures on adjacent unincorporated lands that are designated for agricultural or rural residential uses currently under the County's General Plan. Extension of services such as sewer and water lines and potential road or other infrastructure improvements could generate growth prematurely on the surrounding unincorporated lands and contribute to sprawl.

### **Conversion of/Impacts to Prime Agricultural Lands**

The proposed USA amendment area is located in an area that is surrounded by agricultural lands. **Attachment A4** includes a map showing important farmlands as



designated by the State Department of Conservation. Lands immediately to the west / south of the area are in agricultural use and / or identified as important farmlands by the State Department of Conservation. There is also one parcel adjoining the proposed USA expansion area that is under the Williamson Act contract. Proposed development (multi-family and commercial development, as well as expanded religious facility up to 20,000 square feet) on the unincorporated properties proposed for inclusion in the USA, would likely create additional or new conflicts at the urban /ag edge.

A portion of a 7.5 acre parcel (APN 779-04-052) consists of Class II soils and is considered prime agricultural lands as per the definition in the Cortese Knox Hertzberg Act and the LAFCO policies. The property owner's attorney, in a letter dated February 4, 2013, (**Attachment C**) disagrees and indicates that the property does not qualify as prime agricultural land because although a portion of the property contains Class II soils, the land is not irrigated and the cost of installing a well and irrigation piping would make irrigation economically infeasible. LAFCO Counsel has reviewed the issue, and concludes in her memo dated March 29, 2013, (**Attachment D**) that the land qualifies as prime agricultural land as the "cost of irrigating the land is not sufficiently severe as to render it impractical".

LAFCO has adopted Agricultural Mitigation Policies which recommend provision of mitigation for applications that impact agricultural lands or result in a loss of prime agricultural lands. No mitigation is proposed for impacts from loss/conversion of prime agricultural lands or for potential impacts to adjacent prime agricultural lands.

### **Ability of City to Provide Urban Services**

#### **Fire Protection Services**

The City of Morgan Hill contracts with the California Department of Forestry and Fire Protection (Cal Fire) for fire protection services. Cal Fire currently serves the incorporated parcels in the proposed USA amendment area and would serve the remaining properties upon annexation to the City. The City has indicated that no new facilities or personnel would be needed to provide service to these areas and that it does not anticipate that services to the proposed development would significantly reduce the current level of fire protection service within the City.

#### **Police Services**

The City of Morgan Hill Police Department would provide service to the properties upon annexation. The City does not anticipate the need for additional personnel or new facilities to service the new areas.

#### **Sanitary Sewer Service**

There are existing 24-inch and 30-inch sanitary sewer lines in Monterey Road and a 10-inch sanitary sewer line in Watsonville Road adjacent to the USA amendment area. The City has not indicated the need for any significant new infrastructure in order to serve the area upon annexation to the City. The wastewater from the City of Morgan Hill flows

into a wastewater treatment facility located in the City of Gilroy, operated by the South County Regional Wastewater Authority under a Joint Powers Agreement between the cities of Morgan Hill and Gilroy. The City has indicated that the existing facility has the capacity to serve the proposed increase in service population.

### **Water Service**

There are existing 10-inch water mains in Monterey Road and Watsonville Road adjacent to the proposed USA amendment area. The City-operated water main in Monterey Road terminates approximately 350 feet west of the eastern boundary of the Morgan Hill Bible Church site. The City currently serves the incorporated parcels in the USA amendment area and will serve the new areas upon annexation. The City has indicated that it has adequate water supply to serve increased demand as a result of the proposed development, upon annexation of the area to the City.

### **Storm Drain**

The majority of the proposed USA amendment area (APNs 779-04-001, 056, 003, 004, 005, 030, 072, 074, 032, 033, 010, 015 and portions of 073, 016 and 061) is located within the 100-year flood zone as identified by the Federal Emergency Management Agency's Flood Insurance Rate Maps. Currently there are no City storm drainage pipelines or inlet structures within the proposed USA amendment area. Stormwater flows are conveyed in the open West Little Llagas channel, culverts under Watsonville Road and Monterey Road, and in a local drainage ditch adjacent to Watsonville Road. It is expected that future development on the currently undeveloped properties would significantly increase stormwater runoff. The City states that the Upper Llagas Creek Flood Protection Project is planned for the area and would adequately handle the 100-year flood flows. While the Flood Protection Project is currently in the design stage, the timing for its implementation is unknown and the federal funding to complete it is uncertain. In the absence of federal funds, local funding will be needed. The City indicates that if the Flood Protection Project is not completed prior to the proposed development, the development will be responsible to address the issue.

### **Schools**

The Morgan Hill Unified School District (MHUSD) would serve the proposed USA amendment area. The City has indicated that new multifamily housing development typically generates 0.6 to 0.7 public school students per housing unit, which translates to 60 to 70 students attributable to the 100 multifamily units that are proposed for the USA amendment area. The proposed senior housing units are not expected to generate any students. According to the MHUSD Facilities Director, the District's existing facilities are adequate to accommodate the new students that the proposed development is projected to generate, due in part to recent decreases in District enrollment that created surplus capacity.

## **Annexation of Unincorporated Islands**

LAFCO's policies require cities to annex unincorporated islands prior to requesting USA expansions. The City of Morgan Hill has two remaining islands, Holiday Lake Estates, and a second island on the south side of Llagas Road, west of Llagas Court in the northwest part of the City. The City in its letter dated October 25, 2012, indicates that it does not have any current plans to annex Holiday Lake Estates as the residents are unwilling to pay for an assessment district for necessary sewer line infrastructure. The island receives water service from Morgan Hill but properties in the area rely on aging septic systems and do not have access to sewer service. The City is unable to annex the Llagas Road island because portions of properties are located outside the USA.

## **Fiscal Impact to the City of Morgan Hill and Affected Agencies**

The City of Morgan Hill prepared a Fiscal Impact Analysis which concluded that "the proposed project will be fiscally attractive to the City over the long-term; however, there is the possibility that the City may experience some minor annual fiscal deficits (less than \$5,000 per year in the year of annexation and declining to about \$1,100 by Year 5) until such time as new development begins to occur on the project site, generating new revenues. The project is expected to be built out by Year 10, and generating an annual fiscal surplus for the Morgan Hill General Fund of just under \$60,000, which would likely be sufficient to offset any accumulated fiscal deficits from the prior ten years."

For the County of Santa Clara, the analyses indicates that the "proposed project would not generate significant fiscal impacts in Years 1 and 5, but by Year 10, the annual fiscal deficit would be approximately \$24,000 per year."

The MHUSD is a revenue limit district where state funding covers the gap between local property taxes and the state-mandated per-student minimum. The funding provided by the state will adjust for any changes in the difference between property tax revenues and the minimum amount of funding per student and new development in the area is not expected to impact the MHUSD with respect to ongoing operating or instructional costs.

## **CONCLUSION**

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The City of Morgan Hill is requesting inclusion of the Monterey-South of Watsonville area to its USA in order to allow new residential and commercial development on the lands upon annexation. The proposed USA amendment area is located at the southern end of Morgan Hill in an area with a mix of incorporated /unincorporated parcels and developed / undeveloped properties surrounded by a significant amount of agricultural land.

The City has enough residentially designated vacant land within its existing boundaries to accommodate its growth needs for the next 18 to 33 years. Approximately 20 to 25% (1,923 to 1,569 acres) of all land within the City of Morgan Hill (7,680 acres) is currently vacant. Given the large inventory of vacant land within the City's boundary, expansion of the City's USA boundary is premature. The proposed USA expansion would result in

unnecessary conversion of prime agricultural lands and would create further land use conflicts with surrounding agricultural lands. Keeping the incorporated lands outside the City's USA would not affect the City's ability to serve or develop these lands; however, addition of the incorporated properties to the City's USA, as requested by the City, would make additional unincorporated lands such as the Bible Church properties contiguous to the City's USA. These properties would in turn make other unincorporated lands contiguous to the City's boundaries, putting growth pressures on rural unincorporated lands. For these reasons staff recommends denial.

Alternately, LAFCO may consider inclusion of a smaller portion of the area, specifically four parcels including APNs 779-040-056, 001, 003 and 004. These parcels are surrounded by the City on three sides. The western boundary of these parcels is bounded by the SCVWD parcel (APN 779-04-067) which could serve as a natural buffer between the proposed development and other adjacent agricultural lands, limiting impacts.

Much of Morgan Hill is surrounded by farmland and due to the historically spread out growth pattern of the City of Morgan Hill, the Monterey-South of Watsonville area is only one of many areas along the City's periphery where boundaries are irregular or illogical. Because the issues of how to better utilize vacant lands, where to focus future growth and how to protect agricultural lands are citywide issues that have broad implications for the community, these issues should be addressed in a comprehensive manner with stakeholder and community involvement.

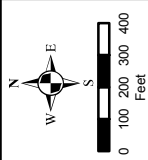
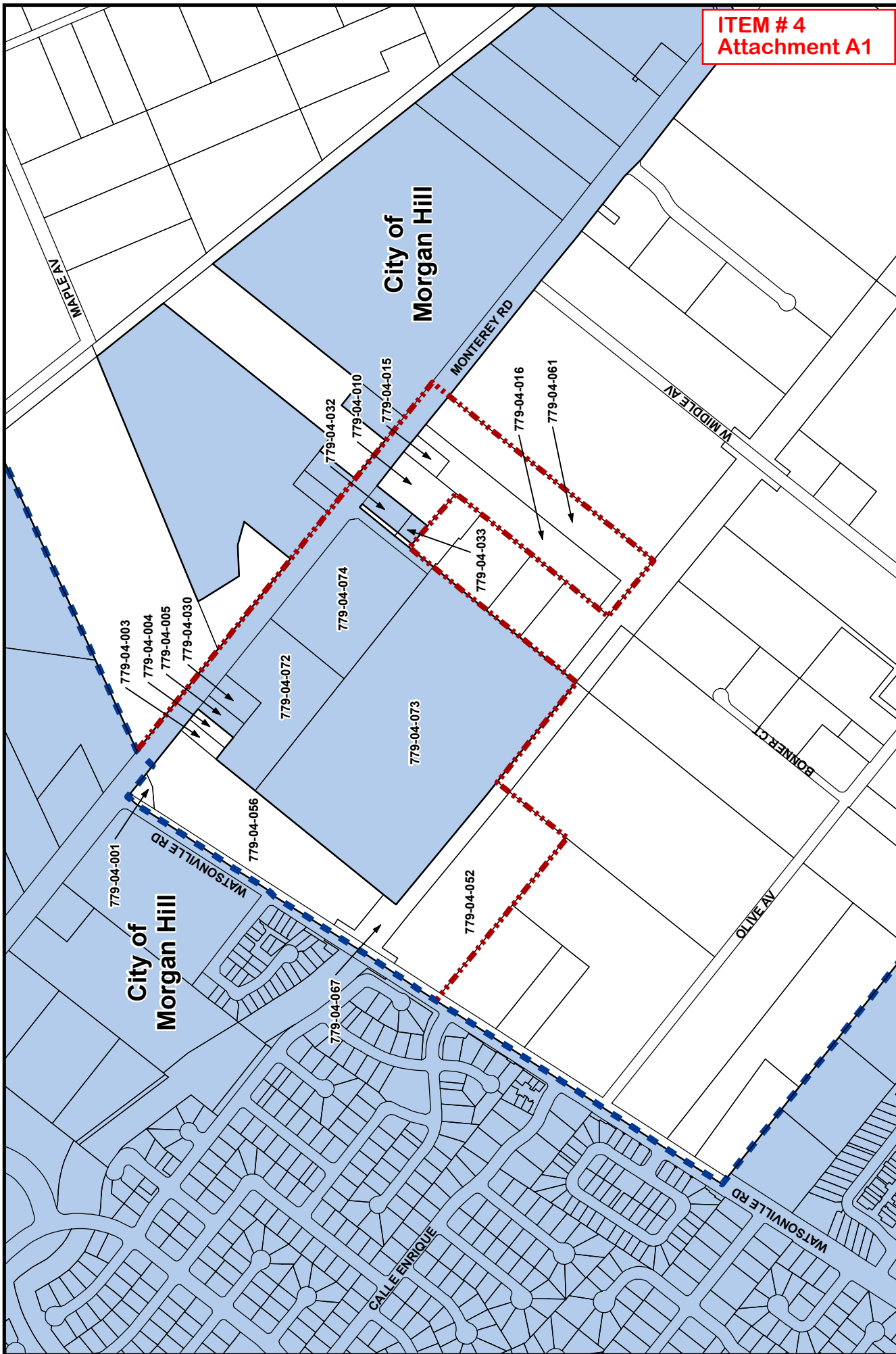
The City of Morgan Hill has recently embarked on a major effort to update its General Plan (called Morgan Hill 2035), to help guide development and conservation in the city over the next 20 years. The scope of the project involves an update of the General Plan's land use element as well as the City's Growth Management System, among other things. The City's General Plan Update process may be an appropriate and timely opportunity for the City to consider and address the above mentioned issues in a holistic manner prior to seeking further expansions.

## **ATTACHMENTS**

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- Attachment A: Maps related to the Proposed Morgan Hill Urban Service Area Amendment
- Attachment B: City Environmental Documents for Monterey-South of Watsonville Road
- Attachment C: Letter Dated February 4, 2013, from Barton Hechtman, regarding Annexation of Royal Oaks Property
- Attachment D: Memo Dated March 29, 2013 from LAFCO Counsel, regarding Prime Agricultural Land and Economic Feasibility

**ITEM # 4  
Attachment A1**



- LEGEND:**
- Existing Morgan Hill U.S.A. Boundary
  - - - - Proposed Morgan Hill U.S.A. Boundary
  - City of Morgan Hill
  - Unincorporated Lands
- 123-45-678 Assessor's Parcel Number

**Morgan Hill Urban Service Area  
Amendment 2012  
(Monterey - South of Watsonville)**

74.8 Acres ± Total  
Prepared by the Office of the County Surveyor  
October 24, 2012  
Gwendolyn Gee, County Surveyor

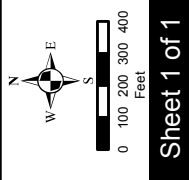
TITLE:

**County of Santa Clara**  
Department of Planning and Development  
Office of the County Surveyor  
County Government Center, East Wing  
70 West Hedding Street, 7th Floor  
San Jose, California 95110





**ITEM # 4**  
**Attachment A2**



- LEGEND:**
- Existing Morgan Hill U.S.A. Boundary
  - Proposed Morgan Hill U.S.A. Boundary
  - City of Morgan Hill
  - Unincorporated Lands
- 123-45-678 Assessor's Parcel Number

**Morgan Hill Urban Service Area  
Amendment 2012  
(Monterey - South of Watsonville)**

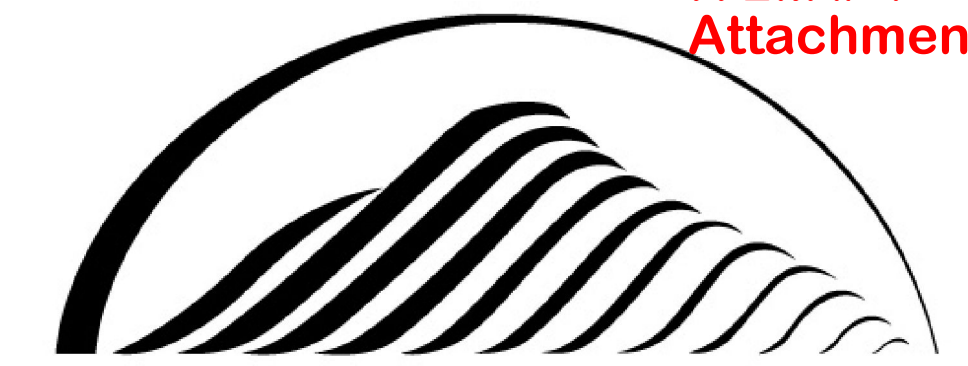
74.8 Acres ± Total

Prepared by the Office of the County Surveyor  
October 24, 2012  
Gwendolyn Gee, County Surveyor

**County of Santa Clara**  
Department of Planning and Development  
Office of the County Surveyor

County Government Center, East Wing  
70 West Hedding Street, 7th Floor  
San Jose, California 95110





# CITY OF MORGAN HILL Vacant Land Within The City of Morgan Hill

## Legend

- USA
- City Boundary
- Urban Growth Boundary
- Vacant Land Unavailable for Development

## General Plan Land Use Designation

- Commercial
- Campus Industrial
- General Commercial
- Industrial
- Multi-Family High
- Multi-Family Low
- Multi-Family Medium
- Mixed Use
- Non-Retail Commercial
- Office Industrial
- Open Space
- Rural County
- Residential Estate
- Single Family High
- Single Family Low
- Single Family Medium

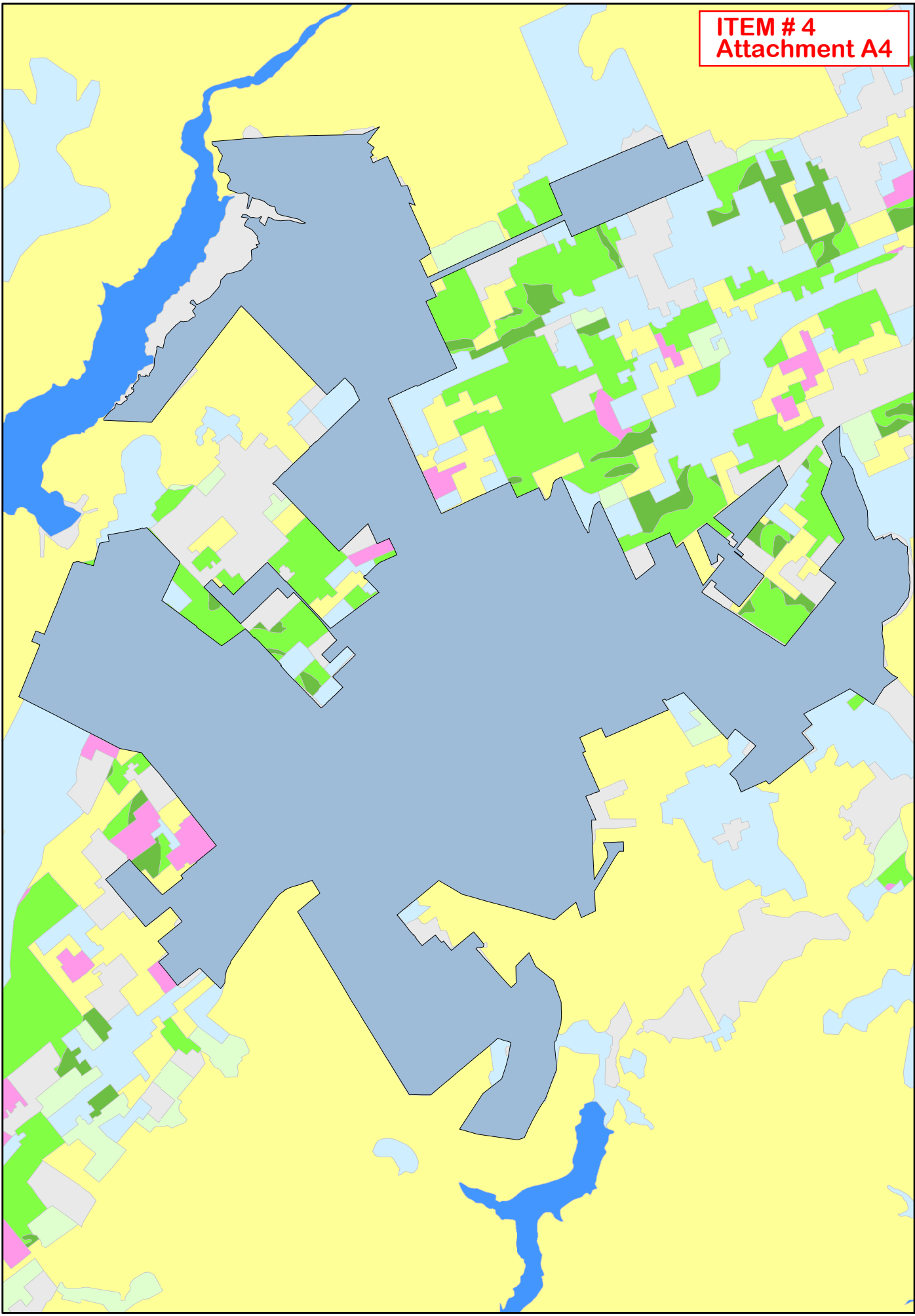


March 28, 2013

This map was produced by the City of Morgan Hill Community Development Department. The data was collected from a variety of reliable sources. However, the City of Morgan Hill makes no representation as to its accuracy and disclaims any liability to persons who may rely upon it.







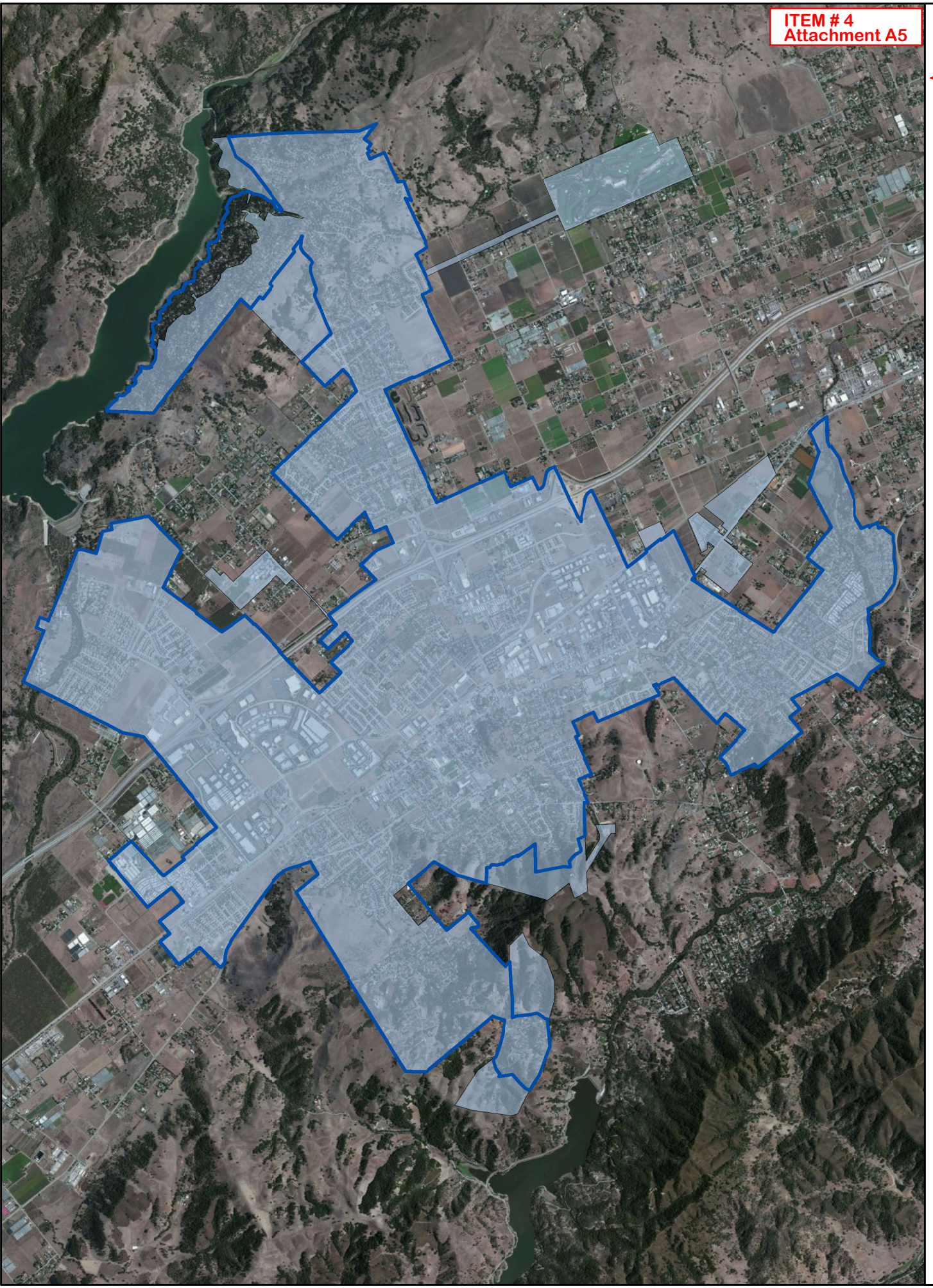
Water  
Other Land

Prime Farmland  
Farmland of Statewide Importance  
Unique Farmland

Urban and Built-Up Land  
Grazing Lands  
Farmland of Local Importance

Morgan Hill City Limits





Morgan Hill U.S.A. Boundary

Morgan Hill City Limits









COMMUNITY DEVELOPMENT AGENCY, PLANNING DIVISION

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17575 Peak Avenue Morgan Hill CA 95037 (408) 778-6480 Fax (408) 779-7236  
Website Address: [www.morgan-hill.ca.gov](http://www.morgan-hill.ca.gov)

## MITIGATED NEGATIVE DECLARATION

### I. DESCRIPTION OF PROJECT:

**Application #s:** USAs 06-01, 08-08, and 08-09; GPAs 07-02, 08-08, and 08-09; and ZAs 08-08, 08-09, and 08-10

**APNs:**

Watsonville-Royal Oaks: 779-04-001, 779-04-003, 779-04-004, 779-04-052, 779-04-056, and 779-04-067

Monterey-City of Morgan Hill: 779-04-005, 779-04-010, 779-04-015, 779-04-030, 779-04-032, 779-04-033, 779-04-074, 779-04-072, and 779-04-073

Monterey-Morgan Hill Bible Church: 779-04-016 and 779-04-061

**Project Title:** Monterey – South of Watsonville Project

**Project Location:**

Watsonville-Royal Oaks: This site includes six parcels totaling 17.34 acres located south of Watsonville Road and southeast of Monterey Road. The site is immediately north of the Monterey-City of Morgan Hill site. The entire site is located outside the city limits.

Monterey-City of Morgan Hill: This site includes nine parcels on 40.57 acres located southeast of the intersection of Monterey Road and Watsonville Road. The site is between the Watsonville-Royal Oaks site and the Monterey-Morgan Hill Bible Church site. Seven of the parcels on the site are located within the city limits.

Monterey-Morgan Hill Bible Church: This site includes two parcels totaling 9.48 acres located southeast of Monterey Road between John Wilson Way and West Middle Avenue, immediately south of the Monterey-City of Morgan Hill site.

## **Project Proponents:**

Royal Oaks Enterprises  
P.O. Box 447, Morgan Hill, CA 95038

City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037

Morgan Hill Bible Church  
15055 Monterey Road, Morgan Hill, CA 95037

## **Project Description:**

### Overview

The City proposes to expand the Urban Service Area (USA) to allow for future urban development on a 67.39-acre area, some of which is currently developed and/or located within the City of Morgan Hill but outside the USA. The project site is comprised of three sub-areas consisting of various uses, including a mushroom processing facility, the Oakwood Country School, single-family residences, commercial uses, Santa Clara Valley Water District land, and the Morgan Hill Bible Church. In order for the site to be developed/redeveloped with urban uses, the City must prezone and annex<sup>1</sup> some of the parcels, and expand the USA boundary to provide urban services to those parcels. The project is also proposing various General Plan land use designation changes (General Plan Amendments (GPAs)) and rezonings on these three sub-areas to allow for mixed use commercial and residential development, as well as the expansion of the Morgan Hill Bible Church. The proposed USA expansion, GPAs, and rezonings provide regulatory changes that guide future development of the project area, and would not result in any immediate physical construction. The proposed actions would provide the appropriate regulatory framework for future development of the parcels with urban uses as forecast in this Initial Study. Future project-specific environmental review would occur prior to any actual development on any of the parcels, with the exception of the Oakwood Country School site, where project-level CEQA review has already been completed in conjunction with the approved Use Permit.

The components of the proposed project are described in greater detail below. Table 2.0-1 provides a summary of the proposed GPAs and zoning changes.

### Urban Service Area Expansion

The project area is located inside the Urban Growth Boundary (UGB), but is located outside the Urban Service Area (USA) for the City of Morgan Hill.<sup>2</sup> The USA is the boundary for which urban services (sewer, water, gas, garbage, etc.) are provided within the City. It is the policy of Santa Clara County that urban development can only occur within a City's USA and City limits. Some of the project

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<sup>1</sup> Although no applications for annexation have been submitted, annexations would be filed at some future point prior to the parcels coming into the city and developing with urban uses as proposed by the GPAs.

<sup>2</sup> The City's Urban Growth Boundary (UGB) is an officially adopted and mapped line dividing land to be developed from land to be protected for natural or rural uses, including agriculture. UGBs are regulatory tools, often designated for 20 or more years to provide greater certainty for both development and conservation goals. The Urban Services Area (USA) is the area within the UGB where utilities such as gas, water, sewer, and electricity, and public services such as police, fire, schools, and parks and recreation are and will be provided.



parcels are within the City limit, while others are not; therefore, portions of the project area must be annexed into the City of Morgan Hill and included within the USA prior to any future development. The existing City and USA boundary runs along Watsonville Road, at the northwestern portion of the site, as shown in Figure 4. In conjunction with the inclusion of the project area within the USA and City limits, all existing County parcels require rezoning in order to be consistent with the City's existing and/or proposed land use designations.

#### Site 1: Watsonville-Royal Oaks

The Watsonville-Royal Oaks site includes six parcels totaling 17.34 acres, all of which are outside the City limit and USA. The site is currently developed with a mushroom processing facility. The remainder of the site is vacant land. A portion of the site is vacant land owned by Santa Clara Valley Water District for flood control purposes. Figure 4 shows the individual project site and parcels within the project area. Land use designation changes are proposed on four of the site parcels (779-04-001, 779-04-003, 779-04-004, and 779-06-056) from *Single Family Medium (SFM)* to *Non-Retail Commercial*, with rezoning to *Light Commercial-Residential (CL-R)* from County *Agriculture (A-20Ac)*. The proposed GPA is intended to accommodate mixed use residential and commercial uses on 8.98 acres of the project site. Uses allowed under *Light Commercial-Residential (CL-R)* include office, commercial, retail, restaurants, social services, public facilities, and residential uses at a density of one dwelling per 2,400 gross square feet or greater, amongst others. This zoning district is compatible with the City's General Plan Land Use designation of *Non-Retail Commercial*.

On one of the parcels (779-04-052), a General Plan Amendment (GPA) from *Single Family Medium (SFM)* to *Multi-Family Medium (MFM)*, and rezoning to *Medium-Density Residential (R3)/Planned Development (PD)* from *Agriculture (A-20Ac)* is proposed to allow for future development of a Senior Assisted Living Facility. The proposed GPA on the parcel would allow for a density of 14-21 dwelling units per acre.

The remaining parcel (779-04-067) is Santa Clara Valley Water District property adjacent to West Little Llagas Creek and will be rezoned to *Open Space (OS)* from *Agriculture (A-20Ac)* to allow for consistency with the General Plan *Open Space (OS)* designation. Any future physical changes to the property undertaken by the SCVWD would be subject to environmental review by the District as Lead Agency. The proposed GPA and rezoning are not anticipated to result in any foreseeable physical changes; rather, they reflect the current use of the property.

Parcels 779-04-056 and 779-04-052 include a *Planned Development (PD)* which allows for flexibility in the zoning district development standards.

Anticipated future development on the 17.34 acre site would include 100 multi-family units, 180 senior units, and 6,000 square feet of retail space.

#### Site 2: Monterey-City of Morgan Hill

The second project site includes nine parcels on 40.57 acres, of which seven parcels are located within the City limit but outside the USA. The site is currently developed with the private Oakwood Country School, two single family residences, and a few small businesses.

On six of the parcels (779-04-005, 779-04-030, 779-04-032, 779-04-033, 779-04-074, and 779-04-072) a GPA from *Single Family Medium (SFM)* to *Non-Retail Commercial*, and rezoning to *Light*



*Commercial-Residential (CL-R)* from *RE (100,000)* is proposed. A GPA from *Single Family Low (SFL)* to *Non-Retail Commercial*, and a rezoning to *Light Commercial-Residential (CL-R)* from *County Agriculture (A-20Ac)* is proposed on two of the parcels (779-04-010 and 779-04-015). The proposed rezoning to *Light Commercial-Residential (CL-R)* is intended to accommodate mixed use residential and commercial uses on 15.98 acres of the project site. This zoning district is compatible with the City's General Plan Land Use designation of *Non-Retail Commercial*.

The Oakwood Country School is located on the remaining parcel (779-04-073). The City of Morgan Hill GP designation of *Single Family Medium (SFM)* will remain the same on the school site, but a zoning change from *RE(100,000)* to *Single Family District R1(9,000)* is proposed. The existing school of 347 students has been approved for expansion for up to 776 students under a Use Permit issued by the City of Morgan Hill in 2004. The Oakwood Country School needs no additional discretionary actions from the City to expand, so this Initial Study acknowledges the existing valid entitlements for that site and the physical changes that can occur to the property as 'background' conditions, but they are not specifically the subject of the Initial Study, save for discussion of cumulative impacts. The purpose of rezoning the school site is to have the zoning district in conformance with the General Plan land use designation for the site, but it will not authorize any additional development that cannot already occur under the current zoning and approved Use Permit.

No specific development is proposed by the project; the project is only the GPA, rezoning, and USA adjustment. For the purposes of this Initial Study, a likely development scenario for the site is used to evaluate the environmental impacts that might reasonably be anticipated to result from future development under the proposed General Plan land use designation (i.e., *Non-Retail Commercial*), and zoning (i.e., *Light Commercial-Residential*). The likely development scenario for the project site was formulated based on the existing development in the project area and existing development patterns in the City of Morgan Hill on sites similar to the project site. The likely development scenario for the project site includes the following for the 15.98 acres of the site not occupied by the Oakwood Country School: 64,600 square feet of commercial and personal services, 19,400 square feet of extensive retail, 11,000 square feet of office, and 60 multi-family dwelling units.

### Site 3: Monterey-Morgan Hill Bible Church

The Monterey-Morgan Hill Bible Church project site includes two parcels totaling 9.48 acres outside the City limit and USA. The site is currently developed with the Morgan Hill Bible Church facility, including surface parking, a sports field, baseball diamond, and volleyball courts. Rezoning of both of the parcels (779-04-016 and 779-04-061) is proposed. The project also includes a GPA from *Single Family Low (SFL)* to *Public Facility (PF)*, and rezoning to *Public Facility (PF)* from *County Agriculture (A-20Ac)* for both parcels. The proposed GPA from *Single Family Low (SFL)* to *Public Facility (PF)* is intended to bring the existing Morgan Hill Bible Church facility into conformance with the General Plan land use designation, and accommodate future growth of the church. Anticipated future development would include redeveloping the existing 11,600 square foot (s.f.) church and classrooms with approximately 20,000 s.f. of the same use. The church is a conditional use under the *Public Facilities District* and would maintain consistency with the proposed General Plan Amendment for the site.



## II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures are included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

## III. CONDITIONS (Mitigation and Avoidance Measures):

### A. *Biological Resources*

#### City of Morgan Hill General Plan

Various policies in the City's General Plan were adopted for the purpose of avoiding or mitigating impacts to biological resources resulting from planned development within the City. All future development is subject to General Plan policies, including the following, which would reduce or avoid impacts to biological resources:

- *Plants and Wildlife Policy 6a* – Preserve all fish and wildlife habitats in their natural state whenever possible. Consider development impacts upon wildlife and utilize actions to mitigate those environmental impacts.
- *Plants and Wildlife Policy 6b* – Minimize impacts upon wildlife when considering extending annexations, urban service areas, and other governmental actions that permit urban development of previously undeveloped property.
- *Plants and Wildlife Policy 6c* - Preserve outstanding natural features, such as the skyline of a prominent hill, rock outcroppings, and native and/or historically significant trees.
- *Plants and Wildlife Policy 6e* - Identify and protect wildlife, rare and endangered plants and animals and heritage resources from loss and destruction.
- *Plants and Wildlife Policy 6g* - Encourage use of native plants, especially drought-resistant species in landscaping to the extent possible.
- *Water Quality Policy 6f* – Require the protection and/or replacement of essential habitat for rare, threatened, or endangered species and species of special concern as required by state and federal law.
- *Water Quality Policy 6g* – Encourage the protection, restoration, and enhancement of remaining native grasslands, oak woodlands, marshlands, and riparian habitat.
- *Water Quality Policy 6h* – Preserve and protect mature, healthy trees whenever feasible, particularly native trees and other trees which are of significant size or of significant aesthetic value to immediate vicinity or to the community as a whole.

## **City of Morgan Hill Burrowing Owl Habitat Mitigation Plan**

In conformance with the City's Burrowing Owl Habitat Mitigation Plan, future development on the project site will be required to implement the following measures to avoid direct impacts to burrowing owls and to offset impacts to non-native grassland habitat. Implementation of this standard measure would avoid or reduce significant impacts to burrowing owls and their habitat.

- Complete pre-construction surveys to determine if burrowing owls are present within the footprint of the proposed grading area, no more than 30 days prior to initiation of any construction-related activities.
- Should burrowing owls be found on the site during breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related activities shall occur outside the exclusion area until the young have fledged.
- If preconstruction surveys are completed during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Game once mitigation has been provided.
- A final report on burrowing owls, including any protection measures, shall be submitted to the Director of Community Development prior to grading.

### **City of Morgan Hill Municipal Code**

- Prior to the removal of any tree protected under the City of Morgan Hill Tree Removal Controls, a tree removal permit would be required from the Community Development Director which would include a description of the tree replacement program and identify any conditions imposed by the City. Tree removal may also occur without a permit if the removal will take place in accordance with an approved landscape plan. [Morgan Hill Municipal Code 12.32.030, 12.32.040, 12.32.060]
- Native trees shall be planted to replace native trees removed unless practical reasons preclude this option, as determined by the Community Development Director. [Morgan Hill Municipal Code 12.32.080(A)]
- No building shall be constructed within 50 feet of a perennial or intermittent stream [Morgan Hill Municipal Code 18.12.080(E)]. The draft Santa Clara Habitat Conservation Plan (HCP) proposes to modify this standard to a 35-foot setback from the top of the bank or outer edge of riparian vegetation. If this provision is adopted, the Municipal Code will likely be amended to be consistent with the HCP.

### **Morgan Hill City Council Policy 05-02**

In July 2005, the Morgan Hill City Council adopted an interim City Council policy that applies to new development adjacent to streams and waterways:



- *City Council Policy 05-02* - New development adjacent to streams and waterways shall be designed to preserve and integrate the waterways and associated habitats. New development should respect the water resource as an asset to the development, and shall not wall off the stream or waterway. New development shall incorporate open space buffers adjacent to waterways, in order to protect the stream and the existing/potential natural resources and habitats contained therein. Trails, pedestrian pathways and/or bikeways should be included within the open space buffer, either as reflected in the City's Park and Bikeways Master Plan or when reasonable and appropriate. Conditions of approval may be imposed to require restoration of riparian habitat, as feasible.

This policy shall apply to land adjacent to streams and waterways which have value as natural and/or recreational resources, including Llagas, West Little Llagas, Edmundson, Fisher, Tennant, Corralitos and Coyote Creeks, as well as the Madrone and Butterfield Channels.

### **Federal and State Laws and Regulations Protecting Wetlands and Creeks**

#### Section 401 and 404 of the Federal Clean Water Act

At the federal level, the Clean Water Act (33 U.S.C. 1344) is the primary law regulating impacts to wetlands and waters. The Clean Water Act regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Waters of the United States include navigable waters, interstate waters, territorial seas, and other waters that may be used in the interstate or foreign commerce. The Section 404 permit program is run by the U.S. Army Corps of Engineers (ACOE) with oversight from the Environmental Protection Agency (EPA). Future impacts to regulated wetlands or waters due to construction will require conformance with an ACOE permit and mitigation requirements to offset impacts. Prior to any construction activities, including filling or excavation within waters of the United States, a Section 404 permit will be obtained from the ACOE and a Water Quality Certification would be obtained from the Regional Water Quality Control Board (RWQCB). The RWQCBs were established under the Porter-Cologne Water Quality Act to oversee water quality in the State of California and the RWQCB issues water quality certification in compliance with Section 401 of the Clean Water Act where impacts to wetlands are proposed. Portions of the project site (APNs 779-04-001, 779-04-056, 779-04-072, and 779-04-074) contain features that appear to be inundated at certain times through the year, including a section of West Little Llagas Creek, a wetland swale, a roadside ditch, two small condensation basins, and a drainage feature that collects condensation water along the back of one of the existing mushroom production buildings. These features are potential waters of the United States.

### **Federal and State Laws and Regulations Protecting Migratory and Nesting Birds**

#### Federal Migratory Bird Treaty Act

The federal Migratory Bird Treaty (MBTA; 16 U.S.C., Section 703, Supplement I, 1989) prohibits the killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The trustee agency that addresses issues related to the MBTA is the U.S. Fish and Wildlife Service (USFWS). Migratory birds protected under this law include all native birds and certain game birds (e.g., turkeys and pheasants). This act encompasses whole birds, parts of birds, and bird nests and eggs. The MBTA protects active nests (i.e., contains eggs or fledglings) from destruction and all nests of species protected by the MBTA. All native bird species occurring in the City of Morgan Hill are protected by the MBTA.

## California Fish and Game Code

All native bird species that occur on the project site are protected by the Fish and Game Code. The California Fish and Game Code protects native birds, including their nests and eggs, from all forms of take, which includes disturbance that causes nest abandonment and/or loss of the reproductive effort. Raptors (i.e., eagles, hawks, falcons, and owls) and their nests are specifically protected in California under Fish and Game Code section 3503.5. Section 3503.5 states that it is “unlawful to take, possess, or destroy any birds in the order of Falconiformes or Stringiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided in this code or regulation adopted pursuant thereto.” Future development on the project site would be required to include measures to avoid impacts to nesting birds.

### ***B. Greenhouse Gas Emissions***

Various policies in the City’s General Plan and measures in the Municipal Code are designed to reduce energy use and promote the use of alternative modes of transportation. These measures can result in a reduction in emissions of greenhouse gases from the combustion of fuels. The City of Morgan Hill does not currently have an adopted Greenhouse Gas Reduction Strategy as defined under the CEQA Guidelines or BAAQMD CEQA Guidelines.

### **General Plan Policies**

Measures in the General Plan that are designed to reduce vehicle miles traveled and energy use in buildings include:

- *Bikeways Policy 8b* – Promote Walking as Alternate Transportation Mode (SCJAP 11.03)
- *Conservation Policy 7a* – Design New Development to Exceed State Standards Water & Energy Use
- *Conservation Policy 7b* – Promote Energy Conservation Techniques & Efficiency in Buildings
- *Conservation Policy 7g* - The landscaping plans for new development should address the planting of trees and shrubs that will provide shade to reduce the need for cooling systems and allow for winter daylighting.
- *Conservation Policy 7j* – Incorporate Renewable Energy Generation in New & Existing Development
- *Conservation Policy 7k* - Promote water conservation and efficient water use in all public and private development projects and landscaping plans.
- *Conservation Policy 7l* - Encourage use of non-potable water for landscape irrigation.
- *Conservation Action 7.5* – Emphasize Energy Conservation Building Techniques for New Residential Construction (MHMC Chapter 18.78)



## Pending General Plan Policies

The City is in the process of amending the General Plan to include the following two policies related to greenhouse gases:

- *Conservation Policy 7m* – Reduce greenhouse gas emissions caused by actions within the City of Morgan Hill.
- *Conservation Action 7.10* – Prepare and implement a Climate Action Plan (CAP) by the year 2015 that will reduce greenhouse gas emissions within the City of Morgan Hill by 2020 consistent with the direction of the State of California, as outlined in Assembly Bill 32: Global Warming Solutions Act.

## **Morgan Hill Municipal Code**

### Water Conserving Landscapes Ordinance

The City of Morgan Hill Municipal Code includes requirements for energy and water conservation for new and existing development within the City. These measures include the Water Conserving Landscapes Ordinance adopted in February 2006. This ordinance regulates landscape design, construction, and maintenance. It promotes efficient water use and management of peak season water demands.

### Sustainable Building Regulations

Chapter 15.65 of the Municipal Code lists Sustainable Building Regulations. The purpose of this chapter is to assure that commercial and residential development is consistent with the City's environmental agenda and General Plan conservation policies 7a and 7b (listed above) to create a more sustainable community by incorporating sustainable building measures into the design, construction, and maintenance of new and existing buildings. The sustainable building provisions referenced in this chapter are designed to achieve the following objectives:

- Increase energy efficiency in buildings.
- Encourage water and resource conservation.
- Reduce waste generated by construction projects.
- Provide durable buildings that are efficient and economical to own and operate.
- Promote healthy and productive indoor environments for residents, workers and visitors to the city.
- Recognize and conserve the energy embodied in existing buildings.

Chapter 15.65 also includes details on the process of document submission, design review, sustainable building compliance, exceptions, appeal, and enforcement. Future development under the proposed General Plan land use designation and rezoning would be required to comply with all applicable regulations and processes listed in Chapter 15.65 of the Municipal Code.

## Title 24

The Morgan Hill Municipal Code requires all buildings to conform to the energy conservation requirements of California Administrative Code Title 24. In addition, the 2010 California Green Building Standards (CALGreen) Code, which includes more stringent requirements for energy and water conservation in new construction, became effective statewide on January 1, 2011.

### **City of Morgan Hill Environmental Agenda**

In 2007, the City Council adopted an Environmental Agenda to enhance the long-term sustainability of Morgan Hill by reducing environmental impacts, increasing community health, and protecting environmental resources for future generations. Progress on environmental goals is assessed on a yearly basis.

To promote and provide opportunities for residents to reduce GHG emissions, the City of Morgan Hill has taken the following steps:

- Posting a carbon calculator on the City's website that is specifically designed for Morgan Hill residents to help conceptualize their contribution to global warming and to provide strategies for reducing emissions;
- Promoting bicycling and walking to City of Morgan Hill events through giveaways;
- Requiring green building checklists to be filled out with building permits, and updating residential development control system criteria to strengthen green building incentives;
- Researching programs that would allow residents to purchase local carbon offsets that would directly benefit the community;
- Implementing programs to reduce the cost of installing solar systems;
- Arranging free bus service for VTA community bus route 16 on Earth Day;
- Providing educational material with utility bills; and
- The Sustainable Buildings Ordinance was adopted on December 16, 2009, which established "green building" requirements for both residential and non-residential development.

### **City of Morgan Hill Climate Action Plan**

Preparation of a Climate Action Plan/Comprehensive GHG Reduction Strategy (CAP/GHG Reduction Strategy) is in the City's current Work Plan. The City of Morgan Hill is committed to preparing a CAP/GHG Reduction Strategy by the year 2015. It is the City's intent that the CAP/GHG Reduction Strategy will include the elements specified in CEQA Guidelines Section 15183.5(b)(1) as well as the 2010 BAAQMD CEQA Guidelines. The City of Morgan Hill CAP/GHG Reduction Strategy will include the following:

- GHG Inventory for Current Year and Forecast for 2020.
- An adopted GHG Reduction Goal for 2020 for the City from all sources (existing and future) which is equivalent to 1990 GHG emission levels, using the service population approach of statewide carbon-efficiency.
- Identification of feasible reduction measures to reduce GHG emissions for 2020 to 1990 levels.
- Application of relevant reduction measures included in the AB 32 Scoping Plan that are within the City's land use authority (such as building energy efficiency, etc.).



- Quantification of the reduction effectiveness of each of the feasible measures identified including disclosure of calculation method and assumptions.
- Identification of implementation steps to achieve the identified goal by 2020.
- Procedures for monitoring and updating the GHG inventory and reduction measures at least twice before 2020 or at least every five years.
- Identification of responsible parties for implementation.
- Schedule of implementation.

### C. *Hazards and Hazardous Materials*

#### General Plan Policies

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from planned development within the City. All future development addressed by this Initial Study would be subject to the development policies and actions listed in the City's General Plan, including the following:

- *Hazardous Materials Policy 3a* - In order to minimize potential hazards, require generators of hazardous waste to use on-site pretreatment prior to discharging treated waste effluent into the sewer system, using such methods as neutralization, precipitation and oxidation. (SCJAP 9.05)
- *Hazardous Materials Policy 3b* - Continue a program of regular inspections and monitoring to ensure compliance with local, State, and Federal regulations, in order to reduce the risks associated with the use and handling of hazardous materials and wastes. (SCJAP 9.00)
- *Hazardous Materials Policy 3c* - Continue to implement the Joint Powers Pretreatment Program for industrial and commercial hazardous material users and/or hazardous waste generators, and coordinate as appropriate with MOU inspections, Hazardous Materials Storage Ordinance (HMSO) regulations, and implementation of applicable State laws. (SCJAP 9.01)
- *Hazardous Materials Policy 3d* - Continue to inspect regularly activities that store and/or use hazardous materials, including above-ground and underground storage tanks and related equipment, to ensure compliance with the City's Hazardous Materials Storage Ordinance (HMSO). (SCJAP 9.02)
- *Hazardous Materials Policy 3e* - Regularly inspect those facilities which store hazardous waste on site for less than 90 days (a time period for which a hazardous materials storage permit is not required). (SCJAP 9.03)
- *Hazardous Materials Policy 3f* - Require submittal of a hazardous materials handling plan as a prerequisite for developments requiring zone changes and use permits. (SCJAP 9.04)
- *Hazardous Materials Policy 3g* - Support County and Santa Clara Valley Water District programs to encourage source reduction and waste minimization by smaller firms which generate hazardous wastes. (SCJAP 9.06)
- *Hazardous Materials Policy 3i* - Work with Gilroy, Santa Clara County, Santa Clara Valley Water District, Regional Water Quality Control Board, and local community groups to coordinate and implement public education programs regarding hazardous materials and waste management. (SCJAP 9.08)

- *Hazardous Materials Policy 3j* - During the implementation of "AB 2185" (Calif. Health and Safety Code Chap. 6.95 Division 20 Section 25500 et seq.) and successor legislation, make major efforts to achieve maximum integration between newly-mandated actions and ongoing hazardous materials programs, particularly as they apply to: a) coordinated permit and fee structure, b) coordinated inspections, c) emergency response ("business") plans, d) training programs, e) evacuation requirements, and f) information requirements. (SCJAP 9.09)
- *Hazardous Materials Policy 3k* - Monitor the transportation of hazardous materials and wastes to reduce risks and ensure notification of South County jurisdictions in the event of a leak or spill. (SCJAP 9.10)
- *Hazardous Materials Policy 3l* - Consider designating specific transportation routes for the conveyance of hazardous materials and waste, if the City desires hazardous materials and waste to be transported on routes other than designated truck routes. (SCJAP 9.13)
- *Hazardous Materials Policy 3m* - Support the County's implementation of a Memorandum of Understanding (MOU) between the Department of Health Services (DOHS) and the County Health Department, whereby the County would act as an agent in requiring hazardous material users and waste generators to provide annual records and in monitoring the haulers of hazardous materials and waste. (SCJAP 9.14)
- *Hazardous Materials Policy 3n* - To reduce the risk involved in transporting hazardous waste and decrease the volume of waste that must be disposed of, encourage the generators of hazardous waste to use on-site pretreatment, such as: neutralization, precipitation and oxidation. (SCJAP 9.15)
- *Hazardous Materials Policy 3q* - The Santa Clara County Hazardous Waste Management Plan is herewith incorporated in this General Plan by reference. It is a City policy to restrict off-site hazardous materials operations (Hazardous Materials Reprocessing uses as defined by the Zoning Ordinance) to industrially-zoned sites which have received Conditional Use Permits and which comply with the Santa Clara County Hazardous Waste management Plan or a City-designated equivalent.
- *Hazardous Materials Policy 3r* - Require off-site hazardous materials operations to obtain permits through the process designated in Section 25199 of the California Health and Safety Code, including the Notice of Intent (NOI) and Local Assessment Committee (LAC) steps where applicable.
- *Hazardous Materials Policy 3s* - Continue to allow Small Quantity Generators such as photo laboratories and dry cleaners to locate in appropriate commercial and industrial zones without requiring additional hazardous materials permits, providing that such uses comply with other Federal, State and local hazardous materials laws and regulations and providing that the site does not accept hazardous waste from off-site for reprocessing.
- *Hazardous Materials Policy 3t* - Provide mitigation to remedy the effects of new or expanding development over areas with environmental contamination of any and all unauthorized discharges.



- *Hazardous Materials Action 3.1* - Enforce hazardous waste facility inspection via a Memorandum of Understanding between State Department of Health Services (DOHS) and County Health Department whereby the County Health Department would act as an agent of DOHS in enforcing this provision, and City Hazardous Materials Specialists and Pretreatment Inspectors may conduct inspections. (SCJAP 9.03)
- *Hazardous Materials Action 3.2* - Require that the South County jurisdictions receive reports from the Department of Transportation and the California Highway Patrol regarding spills or leaks on the highway. (SCJAP 9.11)
- *Hazardous Materials Action 3.3* - If a spill occurs while transporting hazardous materials or waste in one of the South County cities or the County, immediately notify the other jurisdictions. (SCJAP 9.12)

### **Other Programmed Mitigation and Avoidance Measures**

- *AB2185 and AB3777* contain requirements for emergency response plans. The purpose of these plans is to assist local agencies in preparing for a hazardous material spill. Emergency plans identify the potential for accidents in a community, define a chain of command in the event of an emergency, outline escape routes if necessary, and provide other emergency procedures. Each responsible agency maintains detailed operation procedures for responses to hazardous material spills.
- Any necessary clean up and/or remediation would be required to meet all Federal, State, and local regulations. All storage tanks will be properly closed and removed, according to Santa Clara County Fire Department standards, prior to development.

#### **D. *Hydrology and Water Quality***

### **General Plan and Municipal Code Policies**

Many of the policies in the City's General Plan and Municipal Code were adopted for the purpose of avoiding or mitigating potential environmental effects that could result from planned development within the City. All future development would be subject to General Plan and Municipal Code policies, including the following, which will reduce or avoid hydrology and water quality impacts:

- *Sewer Capacity, Water Supply and Storm Drainage Policy 22b* – Residents Served by Local Drainage Facilities Should Pay for their Construction and Maintenance
- *Sewer Capacity, Water Supply and Storm Drainage Action 22.2* – Developers Mitigate Drainage Impacts
- *Sewer Capacity, Water Supply and Storm Drainage Action 22.4* – Requires Storm Water Management Plan for Proposed Development
- *Sewer Capacity, Water Supply and Storm Drainage Action 22.6* - Requires Developers to Mitigate Drainage Impacts and Protect Groundwater Quality

- *Sewer Capacity, Water Supply and Storm Drainage Action 22.8* – Compatibility of Detention and Retention Provided with Storm Drainage System Capacity
- *Flood Control Policy 4a* – Prepare for impacts associated with potential failure of Anderson Dam.
- *Flood Control Policy 4b* – Prohibit Development in Floodways & Regulate in Floodplains
- *Flood Control Policy 4e* – Leave Streamside and Riparian Areas in Natural State
- *Flood Control Policy 4h* – Development Should Minimize Off-site Flooding/Drainage Problems
- *Flood Control Policy 4j* – Fund Flood Control Facilities Locally in Absence of Federal/State Funds
- *Flood Control Policy 4k* – Mitigate Flood-Inducing Impacts of New Development
- *Flood Control Policy 4l* – Floodproof Development at Developers’ Expense (SCJAP 12.05)
- *Flood Control Policy 4m* – Pad Up Structures In Appropriate Situations
- *Flood Control Policy 4o* – Limit Runoff to Pre-development Levels
- *Flood Control Policy 4p* – Require careful consideration of the cumulative effects of development which would drain into the upper reaches of Llagas Creek and other creeks, in order to avoid the need for channelization and consequent destruction of its riparian vegetation and natural habitat. (SCJAP 12.09)
- *Flood Control Action 4.2* – Designate Floodways as Open Space & Prohibiting Construction
- *Flood Control Action 4.4* – Project Review by Santa Clara Valley Water District Prior to City Approval
- *Flood Control Action 4.6* – Require Dedication of Floodway and Floodplain Areas Pursuant to the PL566 Drainage Program
- *Water Quality Policy 5a* – Protect water quality from contamination, and monitor it to assure the present policies and regulations are adequate. Prohibit such uses as waste facilities, septic systems, and industries using toxic chemicals whereby polluting substances may come in contact with groundwater, floodwaters, and creeks, or reservoir waters. (SCJAP 8.00)
- *MHMC Chapter 17.32 Improvement and Improvement Agreements*
- *MHMC Chapter 18.42 Flood Damage Prevention*
- *MHMC Chapter 3.56 Storm Drainage Impact Fee*



## E. Noise

### General Plan and Municipal Code Policies

Many of the policies in the City's General Plan and Municipal Code were adopted for the purpose of avoiding or mitigating potential environmental effects that could result from planned development within the City. All future development would be subject to General Plan and Municipal Code policies, including the following, which will reduce or avoid noise and vibration impacts:

- *Public Health and Safety Policy 7a* - New development projects shall be designated and constructed to meet acceptable exterior noise level standards, as follows:
  - The maximum exterior noise level of 60 dBA  $L_{dn}$  shall be applied in residential areas where outdoor noise is a major consideration (e.g., backyards in single family housing developments and recreation areas in multi-family housing projects.) 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, an  $L_{dn}$  of 65 dBA may be permitted.
  - Indoor noise levels should not exceed an  $L_{dn}$  of 45 dBA in new residential housing units.
  - Noise levels in a new residential development exposed to an exterior  $L_{dn}$  of 60 dBA or greater should be limited to a maximum instantaneous noise level (e.g., trucks on busy streets, train warning whistles) in bedrooms of 50 dBA. Maximum instantaneous noise levels in all other habitable rooms should not exceed 55 dBA. The maximum outdoor noise level for new residences near the railroad shall be 70 dBA  $L_{dn}$ , recognizing that train noise is characterized by relatively few loud events.
- *Public Health and Safety Policy 7b* - The impact of a proposed development project on existing land uses should be evaluated in terms of the potential for adverse community response based on significant increase in existing noise levels, regardless of compatibility guidelines.
- *Public Health and Safety Policy 7e* - Noise level increases resulting from traffic associated with new projects shall be considered significant if: a) the noise level increase is 5 dBA  $L_{dn}$  or greater, with a future noise level of less than 60 dBA  $L_{dn}$ , or b) the noise level increase is 3 dBA  $L_{dn}$  or greater, with a future noise level of 60 dBA  $L_{dn}$  or greater.
- *Public Health and Safety Policy 7f* - Noise levels produced by stationary noise sources associated with new projects shall be considered significant if they substantially exceed ambient noise levels.
- *Community Development Action 12.2* - In requiring noise impact mitigation of new and/or expanded development, the City shall promote the use of techniques less visually disturbing than sound walls-including but not limited to earthen berms and intervening placement of non-sensitive buildings.
- *MHMC Chapter 8.28.040* - Prohibits construction activities between the hours of 8:00 PM and 7:00 AM, Monday through Friday and between the hours of 6:00 PM and 9:00 AM on Saturday. Construction activities may not occur on Sundays or federal holidays.

- *MHMC Chapter 18.48.075 Noise* - At the lot line of all uses specified in Section 18.48.010, the maximum sound generated by any use shall not exceed seventy to seventy-five db(A) when adjacent uses are industrial or wholesale uses. When adjacent to offices, retail or sensitive industries, the sound level shall be limited to sixty-five to seventy db(A). When uses are adjacent or contiguous to residential, park or institutional uses, the maximum sound level shall not exceed sixty db(A). Excluded from these standards are occasional sounds generated by the movement of railroad equipment, temporary construction activities, or warning devices.

### **2010 California Building Code**

Multi-family housing (including congregate care) in the State of California is subject to the environmental noise limits set forth in the 2010 California Building Code. Per the 2010 California Building Code, the maximum interior noise level limit is a of 45 dBA  $L_{dn}$ . Where exterior noise levels exceed 60 dBA  $L_{dn}$ , a report must be submitted to the City with the building plans describing the noise control measures that have been incorporated into the design of the project to meet the noise limit.

#### **F. Utilities and Service Systems**

##### **General Plan Policies**

Many of the policies in the City's General Plan were adopted for the purpose of avoiding or mitigating potential environmental effects that could result from planned development within the City. All future development would be subject to General Plan policies, including the following, conformance with which will reduce utilities and service system impacts to a less than significant level:

- *Sewer Capacity, Water Supply and Storm Drainage Policy 20a* - Expansion of the joint Gilroy/Morgan Hill Wastewater Treatment Facility should proceed, since additional sewer capacity is a prerequisite for further urban development and urban development is most appropriately served by sanitary sewer systems. (SCJAP 6.00)
- *Sewer Capacity, Water Supply and Storm Drainage Policy 20c* - Ensure that the total capacity for the Gilroy/Morgan Hill Wastewater Treatment Facility, its timing for completion, and configuration are consistent with SCJAP policies for the overall growth of Morgan Hill and Gilroy.
- *Sewer Capacity, Water Supply and Storm Drainage Policy 21a* - Manage the supply and use of water more efficiently through appropriate means, such as watershed protection, percolation, conservation and reclamation. (SCJAP 7.00)
- *Sewer Capacity, Water Supply and Storm Drainage Policy 21b* - Ensure that new development does not exceed the water supply. (SCJAP 7.08)
- *Sewer Capacity, Water Supply and Storm Drainage Policy 22a* - Address issues related to flooding throughout the city.
- *Sewer Capacity, Water Supply and Storm Drainage Policy 22b* - Ensure that those residents who benefit from, as well as those who contribute to the need for, local drainage facilities pay for them. (SCJAP 13.02)



## City of Morgan Hill Standard Measures

- In accordance with the City of Morgan Hill Standard Conditions of Approval, future development on the project site would prepare and submit a Storm Drainage Study to the Director of Public Works for review and approval. The Study would include calculations to determine detention and operations and demonstrate how the runoff rate from the proposed project would be less than or equal to existing conditions.

### III. FINDING

The City of Morgan Hill Community Development Director hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the initial study are included in the project.



Leslie Little  
Assistant City Manager for Community Development

Date: 12-8-11



# **MITIGATION MONITORING AND REPORTING PROGRAM**

## **Monterey-South of Watsonville Project**

**(USAs 06-01, 08-08, and 08-09; GPAs 07-02, 08-08, and 08-09; and  
ZAs 08-08, 08-09, and 08-10)**



**October 2011**

# PREFACE

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring or Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the Monitoring or Reporting program is to ensure compliance with the mitigation measures during project implementation.

In October, 2011, the Initial Study for the Monterey – South of Watsonville project concluded that implementation of the project could result in significant effects on the environment; therefore, mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring or Reporting Program outlines these measures and how, when, and by whom they will be implemented.

This document does *not* discuss those subjects for which the Initial Study concluded that the impacts from implementation of the project would be less-than-significant.

**MITIGATION MONITORING OR REPORTING PROGRAM**

**MONTEREY – SOUTH OF WATSONVILLE**

**(USAS 06-01, 08-08, AND 08-09; GPAS 07-02, 08-08, AND 08-09; AND ZAS 08-08, 08-09, AND 08-10)**

Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<b>BIOLOGICAL RESOURCES</b>				
<p><b>Impact BIO-1:</b> Future development on the site (APNs 779-04-001, 779-04-056, 779-04-072, and 779-04-074) could result in significant impacts to jurisdictional waters. <b>(Significant Impact)</b></p>	<p align="center"><b>City of Morgan Hill General Plan</b></p> <ul style="list-style-type: none"> <li>• <i>Plants and Wildlife Policy 6a</i> – Preserve all fish and wildlife habitats in their natural state whenever possible. Consider development impacts upon wildlife and utilize actions to mitigate those environmental impacts.</li> <li>• <i>Plants and Wildlife Policy 6b</i> – Minimize impacts upon wildlife when considering extending annexations, urban service areas, and other governmental actions that permit urban development of previously undeveloped property.</li> <li>• <i>Plants and Wildlife Policy 6e</i> - Identify and protect wildlife, rare and endangered plants and animals and heritage resources from loss and destruction.</li> <li>• <i>Water Quality Policy 6f</i> – Require the protection and/or replacement of essential habitat for rare, threatened, or endangered species and species of special concern as required by state and federal law.</li> <li>• <i>Water Quality Policy 6g</i> – Encourage the protection, restoration, and enhancement of remaining native grasslands, oak woodlands, marshlands, and riparian habitat.</li> </ul> <p align="center"><b>City of Morgan Hill Municipal Code</b></p> <ul style="list-style-type: none"> <li>• No building shall be constructed within 50 feet of a perennial or intermittent stream [Morgan Hill Municipal Code 18.12.080(E)]. The draft Santa Clara Habitat Conservation Plan (HCP) proposes to modify this standard to a 35-foot setback from the top of the bank or outer edge of riparian vegetation. If this provision is adopted, the Municipal Code will likely be amended to be consistent with the HCP.</li> </ul>	<p>A formal wetland delineation shall be completed and submitted by the project proponent to the US Army Corps of Engineers (USACE) for verification prior to approval of a specific future development project.</p> <p>Compliance to be demonstrated in development plans prior to approval of any specific project application.</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p> <p>After jurisdictional habitats have been identified, the project proponents shall implement avoidance, minimization, and/or compensation measures in future projects to</p>	<p>Director of Community Development Agency</p>

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 (USAS 06-01, 08-08, AND 08-09; GPAS 07-02, 08-08, AND 08-09; AND ZAS 08-08, 08-09, AND 08-10)**

<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p style="text-align: center;"><b>Morgan Hill City Council Policy 05-02</b></p> <ul style="list-style-type: none"> <li>• <i>City Council Policy 05-02</i> - New development adjacent to streams and waterways shall be designed to preserve and integrate the waterways and associated habitats. New development should respect the water resource as an asset to the development, and shall not wall off the stream or waterway. New development shall incorporate open space buffers adjacent to waterways, in order to protect the stream and the existing/potential natural resources and habitats contained therein. Trails, pedestrian pathways and/or bikeways should be included within the open space buffer, either as reflected in the City's Park and Bikeways Master Plan or when reasonable and appropriate. Conditions of approval may be imposed to require restoration of riparian habitat, as feasible.</li> </ul> <p>This policy shall apply to land adjacent to streams and waterways which have value as natural and/or recreational resources, including Llagas, West Little Llagas, Edmundson, Fisher, Tennant, Corralitos and Coyote Creeks, as well as the Madrone and Butterfield Channels.</p> <p><b>Federal and State Laws and Regulations Protecting Wetlands and Creeks</b></p> <p><u>Section 401 and 404 of the Federal Clean Water Act</u></p> <p>At the federal level, the Clean Water Act (33 U.S.C. 1344) is the primary law regulating impacts to wetlands and waters. The Clean Water Act regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Waters of the United States include navigable waters, interstate waters, territorial seas, and other waters that may be used in the interstate or foreign commerce. The Section 404 permit program is run by the U.S. Army Corps of Engineers (ACOE) with oversight from the Environmental Protection Agency (EPA). Future impacts to regulated wetlands or waters due to</p>		<p>reduce impacts to any jurisdictional waters and the associated riparian woodland habitat to a less than significant level.</p>	



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**MONTEREY – SOUTH OF WATSONVILLE**

**(USAS 06-01, 08-08, AND 08-09; GPAS 07-02, 08-08, AND 08-09; AND ZAS 08-08, 08-09, AND 08-10)**

<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>construction will require conformance with an ACOE permit and mitigation requirements to offset impacts. Prior to any construction activities, including filling or excavation within waters of the United States, a Section 404 permit will be obtained from the ACOE and a Water Quality Certification would be obtained from the Regional Water Quality Control Board (RWQCB). The RWQCBs were established under the Porter-Cologne Water Quality Act to oversee water quality in the State of California and the RWQCB issues water quality certification in compliance with Section 401 of the Clean Water Act where impacts to wetlands are proposed. Portions of the project site (APNs 779-04-001, 779-04-056, 779-04-072, and 779-04-074) contain features that appear to be inundated at certain times through the year, including a section of West Little Llagas Creek, a wetland swale, a roadside ditch, two small condensation basins, and a drainage feature that collects condensation water along the back of one of the existing mushroom production buildings. These features are potential waters of the United States.</p> <p align="center"><b>Measures to be Considered at the Time of Future Development</b></p> <p><i>The following project-level measure shall be implemented as applicable at the time of future development to reduce impacts to jurisdictional waters:</i></p> <p><b>MM BIO-1:</b> Prior to future development on APNs 779-04-001, 779-04-056, 779-04-072, and 779-04-074, a formal wetland delineation shall be completed and submitted to the US Army Corps of Engineers (USACE) for verification. After jurisdiction habitats have been identified, the project proponents shall implement avoidance, minimization, and/or compensation measures to reduce impacts to any jurisdictional waters and the associated riparian woodland habitat to a less than significant level.</p> <p>If feasible, all waters of the U.S. and State and riparian habitat areas shall be avoided by designing the project so that it avoids</p>			

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>the placement of fill within potential jurisdictional waters and impacts to riparian habitat. A development-free riparian setback shall also be observed as riparian communities require such a buffer to maintain the ecological value that they generally provide to wildlife.</p> <p>If full avoidance is not feasible, actions shall be taken to minimize impacts to all waters of the U.S. and State and the riparian corridor during future site development. Measures taken during construction activities shall include placing construction fencing and erosion control mechanisms, if needed, around wetland features and the riparian area(s) to be preserved to ensure that construction activities do not inadvertently impact these areas.</p> <p>Additionally, as part of project build-out, all proposed lighting shall be designed to avoid light and glare impacts to the riparian corridor. Light sources shall not be visible from riparian areas and shall not illuminate riparian areas.</p> <p>Compensation measures would be required to offset temporary and permanent impacts to all waters of the U.S. and State and the riparian corridor of West Little Llagas Creek as a result of future site development that cannot avoid such impacts. These measures would either result in the creation of new habitat, either onsite or offsite, as replacement for habitat lost or enhance the quality of existing habitat. Compensation measures shall include a replacement-to-loss ratio of between 1:1 and 3:1 for permanent acreage impacts (acres created for each acre impacted). This would include creation of on-site or offsite wetland and/or riparian habitat and reseeding/replanting of vegetation in temporarily disturbed areas.</p>			

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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>The applicant shall also comply with all state and federal regulations related to impacts to these habitats. This may require obtaining a Section 404 Clean Water Act permit from the USACE, Section 401 Water Quality Certification from the RWQCB, and Section 1602 Lake or Stream Alteration Agreement from the CDFG prior to initiating any construction, if deemed necessary, and fulfilling the mitigation requirements of these permits.</p>			
<p><b>Impact BIO-2:</b> Future construction activities at the project site could damage existing trees proposed for preservation. <b>(Significant Impact)</b></p>	<p style="text-align: center;"><b>City of Morgan Hill General Plan</b></p> <ul style="list-style-type: none"> <li>• <i>Plants and Wildlife Policy 6a</i> – Preserve all fish and wildlife habitats in their natural state whenever possible. Consider development impacts upon wildlife and utilize actions to mitigate those environmental impacts.</li> <li>• <i>Plants and Wildlife Policy 6c</i> - Preserve outstanding natural features, such as the skyline of a prominent hill, rock outcroppings, and native and/or historically significant trees.</li> <li>• <i>Water Quality Policy 6f</i> – Require the protection and/or replacement of essential habitat for rare, threatened, or endangered species and species of special concern as required by state and federal law.</li> <li>• <i>Water Quality Policy 6g</i> – Encourage the protection, restoration, and enhancement of remaining native grasslands, oak woodlands, marshlands, and riparian habitat.</li> <li>• <i>Water Quality Policy 6h</i> – Preserve and protect mature, healthy trees whenever feasible, particularly native trees and other trees which are of significant size or of significant aesthetic value to immediate vicinity or to the community as a whole.</li> </ul>	<p>A tree removal permit shall be obtained by the applicant during project-level planning prior to the issuance of a grading permit.</p> <p>Measures to protect ordinance-sized trees which are proposed for preservation on-site shall be implemented by the applicant and contractors during grading and construction activities.</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p> <p>All measures shall be printed on all construction</p>	<p>Director of Community Development Department</p>

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p style="text-align: center;"><b>City of Morgan Hill Municipal Code</b></p> <ul style="list-style-type: none"> <li>• Prior to the removal of any tree protected under the City of Morgan Hill Tree Removal Controls, a tree removal permit would be required from the Community Development Director which would include a description of the tree replacement program and identify any conditions imposed by the City. Tree removal may also occur without a permit if the removal will take place in accordance with an approved landscape plan. [Morgan Hill Municipal Code 12.32.030, 12.32.040, 12.32.060]</li> <li>• Native trees shall be planted to replace native trees removed unless practical reasons preclude this option, as determined by the Community Development Director. [Morgan Hill Municipal Code 12.32.080(A)]</li> </ul> <p style="text-align: center;"><b>Measures to be Considered at the Time of Future Development</b></p> <p><i>The following project-level measure shall be implemented as applicable at the time of future development to reduce impacts to trees:</i></p> <p><b>MM BIO-2:</b> The following measures shall be implemented on-site during construction activities to protect ordinance-sized trees proposed for preservation:</p> <ul style="list-style-type: none"> <li>• Locate structures, grade changes, etc. as far as feasible from the `dripline' area of the tree.</li> <li>• Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5 times the `dripline' area of trees. Where root damage cannot be avoided, roots encountered (over one inch diameter) should be exposed approximately 12 inches beyond the area to be disturbed (towards tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or power saw, and</li> </ul>		documents, contracts, and project plans.	

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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>immediately back-filled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.</p> <ul style="list-style-type: none"> <li>• Construct a temporary fence as far from the tree stem (trunk) as possible, completely surrounding the tree, and six- to eight-feet in height. Post no parking or storage signs around the outside of the fencing. Do not attach posting to the mainstem of the tree.</li> <li>• Do not allow vehicles, equipment, pedestrian traffic; building materials or debris storage; or disposal of toxic or other materials inside of the fenced off area.</li> <li>• Avoid pruning immediately before, during, or immediately after construction impact. Perform only that pruning which is unavoidable due to conflicts with proposed development. Aesthetic pruning should not be performed for at least one- to two- years following completion of construction.</li> <li>• Trees that will be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities, with not more than 6 pounds of actual nitrogen per 1,000 square feet of accessible `drip line' area or beyond.</li> <li>• Mulch `rooting' area with an acidic organic compost or mulch.</li> <li>• Arrange for periodic (Biannual/Quarterly) inspection of tree conditions, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.</li> </ul>			
<p><b>Impact BIO-3:</b>                      Construction activities associated with future development on the</p>	<p style="text-align: center;"><b>City of Morgan Hill General Plan</b></p> <ul style="list-style-type: none"> <li>• <i>Plants and Wildlife Policy 6a</i> – Preserve all fish and wildlife habitats in their natural state whenever possible. Consider development impacts upon wildlife and utilize actions to mitigate those environmental</li> </ul>	If it is not possible to avoid tree removal or other disturbances during the breeding season (February 1	Future projects shall be reviewed for consistency with General Plan policies and other	Director of Community Development Department



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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
<p>site could result in the abandonment of active nests or direct mortality of special status bird species.  <b>(Significant Impact)</b></p>	<p>impacts.</p> <ul style="list-style-type: none"> <li>• <i>Plants and Wildlife Policy 6b</i> – Minimize impacts upon wildlife when considering extending annexations, urban service areas, and other governmental actions that permit urban development of previously undeveloped property.</li> <li>• <i>Plants and Wildlife Policy 6c</i> - Preserve outstanding natural features, such as the skyline of a prominent hill, rock outcroppings, and native and/or historically significant trees.</li> <li>• <i>Plants and Wildlife Policy 6e</i> - Identify and protect wildlife, rare and endangered plants and animals and heritage resources from loss and destruction.</li> <li>• <i>Water Quality Policy 6f</i> – Require the protection and/or replacement of essential habitat for rare, threatened, or endangered species and species of special concern as required by state and federal law.</li> <li>• <i>Water Quality Policy 6g</i> – Encourage the protection, restoration, and enhancement of remaining native grasslands, oak woodlands, marshlands, and riparian habitat.</li> <li>• <i>Water Quality Policy 6h</i> – Preserve and protect mature, healthy trees whenever feasible, particularly native trees and other trees which are of significant size or of significant aesthetic value to immediate vicinity or to the community as a whole.</li> </ul> <p style="text-align: center;"><b>City of Morgan Hill Municipal Code</b></p> <ul style="list-style-type: none"> <li>• Prior to the removal of any tree protected under the City of Morgan Hill Tree Removal Controls, a tree removal permit would be required from the Community Development Director which would include any conditions imposed by the City, including conditions necessary to avoid impacts to nesting birds. Tree removal may also occur without a permit if the removal will take place in accordance with an approved landscape</li> </ul>	<p>through August 31), a qualified biologist shall conduct a pre-construction survey for nesting migratory birds prior to the onset of ground disturbance, if such disturbance will occur during the breeding season. Preconstruction surveys for nesting migratory birds shall be conducted no more than 14 days prior to the onset of ground disturbance during the early part of the nesting season (February 1 through May 15), and no more than 30 days prior to the onset of ground disturbance during the later portion of the nesting season (May 16 – August 31).</p>	<p>applicable regulations. Project-level mitigation measures shall be adopted, as appropriate.</p> <p>A copy of the survey shall be provided to the City.</p>	

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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p style="text-align: center;">plan. [Morgan Hill Municipal Code 12.32.030, 12.32.040, 12.32.060]</p> <p style="text-align: center;"><b>Federal and State Laws and Regulations Protecting Migratory and Nesting Birds</b></p> <p><u>Federal Migratory Bird Treaty Act</u></p> <p>The federal Migratory Bird Treaty (MBTA; 16 U.S.C., Section 703, Supplement I, 1989) prohibits the killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The trustee agency that addresses issues related to the MBTA is the U.S. Fish and Wildlife Service (USFWS). Migratory birds protected under this law include all native birds and certain game birds (e.g., turkeys and pheasants). This act encompasses whole birds, parts of birds, and bird nests and eggs. The MBTA protects active nests (i.e., contains eggs or fledglings) from destruction and all nests of species protected by the MBTA. All native bird species occurring in the City of Morgan Hill are protected by the MBTA.</p> <p><u>California Fish and Game Code</u></p> <p>All native bird species that occur on the project site are protected by the Fish and Game Code. The California Fish and Game Code protects native birds, including their nests and eggs, from all forms of take, which includes disturbance that causes nest abandonment and/or loss of the reproductive effort. Raptors (i.e., eagles, hawks, falcons, and owls) and their nests are specifically protected in California under Fish and Game Code section 3503.5. Section 3503.5 states that it is “unlawful to take, possess, or destroy any birds in the order of Falconiformes or Stringiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided in this code or regulation adopted pursuant thereto.” Future development on the project site would be required to include measures to avoid impacts to nesting</p>			

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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>birds.</p> <p style="text-align: center;"><b>Measures to be Considered at the Time of Future Development</b></p> <p><i>The following project-level measure shall be implemented as applicable at the time of future development to reduce impacts to special status bird species:</i></p> <p><b>MM BIO-3:</b> Trees planned for removal from the study area should be removed during the non-breeding season (September 1 through January 31). If it is not possible to avoid tree removal or other disturbances during the breeding season (February 1 through August 31), a qualified biologist should conduct a pre-construction survey for nesting migratory birds, including for white-tailed kites, in all trees within the planned development footprint and within 250 feet of the footprint prior to the onset of ground disturbance, if such disturbance will occur during the breeding season. Preconstruction surveys for nesting migratory birds should be conducted no more than 14 days prior to the onset of ground disturbance during the early part of the nesting season (February 1 through May 15), and no more than 30 days prior to the onset of ground disturbance during the later portion of the nesting season (May 16 – August 31). If nesting migratory birds, including for white-tailed kites, are detected during the survey, a suitable construction-free buffer should be established around all active nests. The precise dimension of the buffer (up to 250 ft. for most raptors) would be determined at that time and may vary depending on location and species. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. Pre-construction surveys during the non-breeding season are not necessary for these species, as they are expected to abandon their roosts during construction. Implementation of</p>			

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	the above measures would mitigate impacts to tree-nesting raptors, including white-tailed kites, and other migratory birds to a less than significant level.			
<p><b>Impact BIO-4:</b> Construction activities associated with future development on the site could result in the direct mortality of burrowing owls. <b>(Significant Impact)</b></p>	<p align="center"><b>City of Morgan Hill General Plan</b></p> <ul style="list-style-type: none"> <li>• <i>Plants and Wildlife Policy 6a</i> – Preserve all fish and wildlife habitats in their natural state whenever possible. Consider development impacts upon wildlife and utilize actions to mitigate those environmental impacts.</li> <li>• <i>Plants and Wildlife Policy 6b</i> – Minimize impacts upon wildlife when considering extending annexations, urban service areas, and other governmental actions that permit urban development of previously undeveloped property.</li> <li>• <i>Plants and Wildlife Policy 6e</i> - Identify and protect wildlife, rare and endangered plants and animals and heritage resources from loss and destruction.</li> <li>• <i>Water Quality Policy 6f</i> – Require the protection and/or replacement of essential habitat for rare, threatened, or endangered species and species of special concern as required by state and federal law.</li> <li>• <i>Water Quality Policy 6g</i> – Encourage the protection, restoration, and enhancement of remaining native grasslands, oak woodlands, marshlands, and riparian habitat.</li> </ul> <p align="center"><b>City of Morgan Hill Burrowing Owl Habitat Mitigation Plan</b></p> <ul style="list-style-type: none"> <li>• Complete pre-construction surveys to determine if burrowing owls are present within the footprint of the proposed grading area, no more than 30 days prior to initiation of any construction-related activities.</li> <li>• Should burrowing owls be found on the site during breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related</li> </ul>	<p>A qualified biologist shall conduct pre-construction surveys for owls within 30 days of the onset of ground disturbance.</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. . . Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p> <p>A copy of the survey shall be provided to the City.</p>	<p>Director of Community Development Department</p>



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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>activities shall occur outside the exclusion area until the young have fledged.</p> <ul style="list-style-type: none"> <li>• If preconstruction surveys are completed during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Game once mitigation has been provided.</li> <li>• A final report on burrowing owls, including any protection measures, shall be submitted to the Director of Community Development prior to grading.</li> </ul> <p><b>Federal and State Laws and Regulations Protecting Migratory and Nesting Birds</b></p> <p><u>Federal Migratory Bird Treaty Act</u></p> <p>The federal Migratory Bird Treaty (MBTA; 16 U.S.C., Section 703, Supplement I, 1989) prohibits the killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The trustee agency that addresses issues related to the MBTA is the U.S. Fish and Wildlife Service (USFWS). Migratory birds protected under this law include all native birds and certain game birds (e.g., turkeys and pheasants). This act encompasses whole birds, parts of birds, and bird nests and eggs. The MBTA protects active nests (i.e., contains eggs or fledglings) from destruction and all nests of species protected by the MBTA. All native bird species occurring in the City of Morgan Hill are protected by the MBTA.</p> <p><u>California Fish and Game Code</u></p> <p>All native bird species that occur on the project site are protected by the Fish and Game Code. The California Fish and Game Code protects native birds, including their nests and eggs, from all forms of take, which includes</p>			

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>disturbance that causes nest abandonment and/or loss of the reproductive effort. Raptors (i.e., eagles, hawks, falcons, and owls) and their nests are specifically protected in California under Fish and Game Code section 3503.5. Section 3503.5 states that it is “unlawful to take, possess, or destroy any birds in the order of Falconiformes or Stringiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided in this code or regulation adopted pursuant thereto.” Future development on the project site would be required to include measures to avoid impacts to nesting birds.</p> <p align="center"><b>Measures to be Considered at the Time of Future Development</b></p> <p><i>The following project-level measure shall be implemented as applicable at the time of future development to reduce impacts to burrowing owls:</i></p> <p><b>MM BIO-4:</b> To avoid potential impacts to individual burrowing owls (should they occur onsite at some time in the future before the beginning of construction), a qualified biologist shall conduct pre-construction surveys for owls within 30 days of the onset of ground disturbance. These surveys would be conducted in a manner consistent with accepted burrowing owl survey protocols. If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (September 1 through January 31), then an eviction effort (i.e., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be necessary to ensure that the owls are not harmed or injured during construction. Should burrowing owls be detected on the site during future breeding seasons (February 1 through August 31), a construction-free buffer of at least 250 feet should be established around all active owl nests. The buffer areas shall be delineated with some form of fencing or visual tape, and</p>			

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>construction equipment and workers should not enter the enclosed setback areas. Buffers shall remain in place for the duration of the breeding season or until young are independent. After the breeding season, an eviction process for any remaining owls may take place as described above.</p>			
<p><b>Impact BIO-5:</b> Future development on the site could result in the loss of a bat colony. <b>(Significant Impact)</b></p>	<p align="center"><b>City of Morgan Hill General Plan</b></p> <ul style="list-style-type: none"> <li>• <i>Plants and Wildlife Policy 6a</i> – Preserve all fish and wildlife habitats in their natural state whenever possible. Consider development impacts upon wildlife and utilize actions to mitigate those environmental impacts.</li> <li>• <i>Plants and Wildlife Policy 6b</i> – Minimize impacts upon wildlife when considering extending annexations, urban service areas, and other governmental actions that permit urban development of previously undeveloped property.</li> <li>• <i>Plants and Wildlife Policy 6e</i> - Identify and protect wildlife, rare and endangered plants and animals and heritage resources from loss and destruction.</li> <li>• <i>Water Quality Policy 6f</i> – Require the protection and/or replacement of essential habitat for rare, threatened, or endangered species and species of special concern as required by state and federal law.</li> </ul> <p align="center"><b>Measures to be Considered at the Time of Future Development</b></p> <p><i>The following project-level measure shall be implemented as applicable at the time of future development to reduce impacts to bats:</i></p> <p><b>MM BIO-5:</b> A detailed bat survey shall be conducted to determine if bats are roosting or breeding in the buildings of the parcels listed above prior to demolition. A qualified bat specialist will look</p>	<p>A detailed bat survey shall be conducted to determine if bats are roosting or breeding in the buildings identified on parcels APNs 779-04-056 and 779-04-030 prior to demolition. The survey shall be conducted during the time of year when bats are active, between April 1 and September 15. If demolition is planned within this timeframe, the survey shall be conducted within 30 days of demolition.</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. . Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p> <p>A copy of the survey shall be provided to the City.</p>	<p>Director of Community Development Department</p>

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>for individuals, guano, staining, and vocalization by direct observation and potentially waiting for nighttime emergence. The survey shall be conducted during the time of year when bats are active, between April 1 and September 15. If demolition is planned within this timeframe, the survey shall be conducted within 30 days of demolition. An initial survey could be conducted to provide early warning if bats are present, but a follow-up survey will be necessary within 30 days. If demolition is planned outside of this timeframe (September 16 through March 31), the survey shall be conducted in September prior to demolition. If no bats are observed to be roosting or breeding in these structures, then no further action would be required, and demolition can proceed.</p> <p>If a non-breeding bat colony is found in the structures to be demolished, the individuals shall be humanely evicted via the partial dismantlement of the buildings prior to demolition under the direction of a qualified bat specialist to ensure that no harm or “take” would occur to any bats as a result of demolition activities. If a maternity colony is detected in the buildings, then a construction-free buffer will be established around the structure and remain in place until it has been determined by a qualified bat specialist that the nursery is no longer active. Demolition should preferably be done between March 1 and April 15 or August 15 and October 15 to avoid interfering with an active nursery.</p>			
<b>Impact BIO-6:</b>	<b>City of Morgan Hill General Plan</b>	A qualified biologist	Future projects	Director of



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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
<p>Future development on the site could result in significant impacts to the San Francisco dusky-footed woodrat. <b>(Significant Impact)</b></p>	<ul style="list-style-type: none"> <li>• <i>Plants and Wildlife Policy 6a</i> – Preserve all fish and wildlife habitats in their natural state whenever possible. Consider development impacts upon wildlife and utilize actions to mitigate those environmental impacts.</li> <li>• <i>Plants and Wildlife Policy 6b</i> – Minimize impacts upon wildlife when considering extending annexations, urban service areas, and other governmental actions that permit urban development of previously undeveloped property.</li> <li>• <i>Plants and Wildlife Policy 6e</i> - Identify and protect wildlife, rare and endangered plants and animals and heritage resources from loss and destruction.</li> <li>• <i>Water Quality Policy 6f</i> – Require the protection and/or replacement of essential habitat for rare, threatened, or endangered species and species of special concern as required by state and federal law.</li> </ul> <p style="text-align: center;"><b>Measures to be Considered at the Time of Future Development</b></p> <p><i>The following project-level measure shall be implemented as applicable at the time of future development to reduce impacts to dusky-footed woodrats:</i></p> <p><b>MM BIO-6:</b> A qualified biologist shall conduct a pre-construction survey for the San Francisco dusky-footed woodrat within 30 days of ground disturbance. As this species usually breeds during the spring and summer months, and since young are altricial (i.e., born in an undeveloped state and requiring care and feeding by the parents during early development), the nests shall be manually deconstructed when it is determined by a qualified biologist that the young can move effectively independent of their parents’ care (generally from October through January). If woodrats are observed within the nest individual woodrats</p>	<p>shall conduct a pre-construction survey for the San Francisco dusky-footed woodrat within 30 days of ground disturbance.</p>	<p>shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p> <p>A copy of the survey shall be provided to the City.</p>	<p>Community Development Department</p>

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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	shall be relocated to suitable habitat in consultation with the CDFG. If young are present, a suitable construction-free buffer shall be established around the active nest until such time when the young can move on their own.			

**GREENHOUSE GAS EMISSIONS**

<p><b>Impact GHG-1</b> Future development on the project site would exceed BAAQMD thresholds for greenhouse gases. <b>(Significant Impact)</b></p>	<p align="center"><b>General Plan Policies</b></p> <ul style="list-style-type: none"> <li>• <i>Bikeways Policy 8b</i> – Promote Walking as Alternate Transportation Mode (SCJAP 11.03)</li> <li>• <i>Conservation Policy 7a</i> – Design New Development to Exceed State Standards Water &amp; Energy Use</li> <li>• <i>Conservation Policy 7b</i> – Promote Energy Conservation Techniques &amp; Efficiency in Buildings</li> <li>• <i>Conservation Policy 7g</i> - The landscaping plans for new development should address the planting of trees and shrubs that will provide shade to reduce the need for cooling systems and allow for winter daylighting.</li> <li>• <i>Conservation Policy 7j</i> – Incorporate Renewable Energy Generation in New &amp; Existing Development</li> <li>• <i>Conservation Policy 7k</i> - Promote water conservation and efficient water use in all public and private development projects and landscaping plans.</li> <li>• <i>Conservation Policy 7l</i> - Encourage use of non-potable water for landscape irrigation.</li> <li>• <i>Conservation Action 7.5</i> – Emphasize Energy Conservation Building Techniques for New Residential Construction (MHMC Chapter 18.78)</li> </ul> <p><u>Proposed General Plan Policies</u></p>	To be implemented by the applicant during project-level design, prior to approval of a specific detailed site plan.	Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.	Director of Community Development Agency
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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>The City has proposed, concurrent with the subject project, amending the General Plan to include the following two policies related to greenhouse gases:</p> <ul style="list-style-type: none"> <li>• <i>Conservation Policy 7m</i> – Reduce greenhouse gas emissions caused by actions within the City of Morgan Hill.</li> <li>• <i>Conservation Action 7.10</i> – Prepare and implement a Climate Action Plan (CAP) by the year 2015 that will reduce greenhouse gas emissions within the City of Morgan Hill by 2020 consistent with the direction of the State of California, as outlined in Assembly Bill 32: Global Warming Solutions Act.</li> </ul> <p style="text-align: center;"><b>Morgan Hill Municipal Code</b></p> <p><u>Water Conserving Landscapes Ordinance</u></p> <p>The City of Morgan Hill Municipal Code includes requirements for energy and water conservation for new and existing development within the City. These measures include the Water Conserving Landscapes Ordinance adopted in February 2006. This ordinance regulates landscape design, construction, and maintenance. It promotes efficient water use and management of peak season water demands.</p> <p><u>Sustainable Building Regulations</u></p> <p>Chapter 15.65 of the Municipal Code lists Sustainable Building Regulations. The purpose of this chapter is to assure that commercial and residential development is consistent with the City's environmental agenda and General Plan conservation policies 7a and 7b (listed above) to create a more sustainable community by incorporating sustainable building measures into the design, construction, and maintenance of new and existing buildings. The sustainable</p>			

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>building provisions referenced in this chapter are designed to achieve the following objectives:</p> <ul style="list-style-type: none"> <li>• Increase energy efficiency in buildings.</li> <li>• Encourage water and resource conservation.</li> <li>• Reduce waste generated by construction projects.</li> <li>• Provide durable buildings that are efficient and economical to own and operate.</li> <li>• Promote healthy and productive indoor environments for residents, workers and visitors to the city.</li> <li>• Recognize and conserve the energy embodied in existing buildings.</li> </ul> <p>Chapter 15.65 also includes details on the process of document submission, design review, sustainable building compliance, exceptions, appeal, and enforcement. Future development under the proposed General Plan land use designation and rezoning would be required to comply with all applicable regulations and processes listed in Chapter 15.65 of the Municipal Code.</p> <p><u>Title 24</u></p> <p>The Morgan Hill Municipal Code requires all buildings to conform to the energy conservation requirements of California Administrative Code Title 24. In addition, the 2010 California Green Building Standards (CALGreen) Code, which includes more stringent requirements for energy and water conservation in new construction, became effective statewide on January 1, 2011.</p> <p style="text-align: center;"><b>City of Morgan Hill Environmental Agenda</b></p> <p>In 2007, the City Council adopted an Environmental Agenda to enhance the long-term sustainability of Morgan Hill by reducing environmental impacts, increasing community health, and protecting environmental resources for future</p>			



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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>generations. Progress on environmental goals is assessed on a yearly basis.</p> <p>To promote and provide opportunities for residents to reduce GHG emissions, the City of Morgan Hill has taken the following steps:</p> <ul style="list-style-type: none"> <li>• Posting a carbon calculator on the City’s website that is specifically designed for Morgan Hill residents to help conceptualize their contribution to global warming and to provide strategies for reducing emissions;</li> <li>• Promoting bicycling and walking to City of Morgan Hill events through giveaways;</li> <li>• Requiring green building checklists to be filled out with building permits, and updating residential development control system criteria to strengthen green building incentives;</li> <li>• Researching programs that would allow residents to purchase local carbon offsets that would directly benefit the community;</li> <li>• Implementing programs to reduce the cost of installing solar systems;</li> <li>• Arranging free bus service for VTA community bus route 16 on Earth Day;</li> <li>• Providing educational material with utility bills; and</li> <li>• The Sustainable Buildings Ordinance was adopted on December 16, 2009, which established “green building” requirements for both residential and non-residential development.</li> </ul> <p style="text-align: center;"><b>City of Morgan Hill Climate Action Plan</b></p> <p>Preparation of a Climate Action Plan/Comprehensive GHG Reduction Strategy (CAP/GHG Reduction Strategy) is in the City’s current Work Plan. The City of Morgan Hill is committed to preparing a CAP/GHG Reduction Strategy by the year 2015. It is the City’s intent that the CAP/GHG Reduction Strategy will include the elements specified in CEQA Guidelines Section 15183.5(b)(1) as well as the 2010 BAAQMD CEQA Guidelines. The City of Morgan Hill CAP/GHG Reduction Strategy will include the following:</p>			

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<ul style="list-style-type: none"> <li>• GHG Inventory for Current Year and Forecast for 2020.</li> <li>• An adopted GHG Reduction Goal for 2020 for the City from all sources (existing and future) which is equivalent to 1990 GHG emission levels, using the service population approach of statewide carbon-efficiency.</li> <li>• Identification of feasible reduction measures to reduce GHG emissions for 2020 to 1990 levels.</li> <li>• Application of relevant reduction measures included in the AB 32 Scoping Plan that are within the City’s land use authority (such as building energy efficiency, etc.).</li> <li>• Quantification of the reduction effectiveness of each of the feasible measures identified including disclosure of calculation method and assumptions.</li> <li>• Identification of implementation steps to achieve the identified goal by 2020.</li> <li>• Procedures for monitoring and updating the GHG inventory and reduction measures at least twice before 2020 or at least every five years.</li> <li>• Identification of responsible parties for implementation.</li> <li>• Schedule of implementation.</li> </ul>			

**HAZARDS AND HAZARDOUS MATERIALS**

<p><b>Impact HAZ-1:</b> Visually impacted soil is present beneath the oil storage shed on the Watsonville-Royal Oaks site. <b>(Significant Impact);</b></p>	<p align="center"><b>General Plan Policies</b></p> <ul style="list-style-type: none"> <li>• <i>Hazardous Materials Policy 3f</i> - Require submittal of a hazardous materials handling plan as a prerequisite for developments requiring zone changes and use permits. (SCJAP 9.04)</li> <li>• <i>Hazardous Materials Policy 3t</i> - Provide mitigation to remedy the effects of new or expanding development over areas with environmental contamination of any and all unauthorized discharges.</li> </ul>	<p>As part of any future project-level environmental review for future development on the site, soil samples shall be collected near the visually impacted areas to</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level</p>	<p>Director of Community Development Agency</p>
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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p><b>Impact HAZ-2:</b> Visually impacted gravel is present on the Monterey-City of Morgan Hill site. <b>(Significant Impact);</b> and,</p> <p><b>Impact HAZ-5:</b> Future development on the site could expose construction workers, the surrounding residences and school, and future occupants to harmful chemicals. <b>(Significant Impact)</b></p>	<p align="center"><b>Other Programmed Mitigation and Avoidance Measures</b></p> <ul style="list-style-type: none"> <li>Any necessary clean up and/or remediation would be required to meet all Federal, State, and local regulations. All storage tanks will be properly closed and removed, according to Santa Clara County Fire Department standards, prior to development.</li> </ul> <p align="center"><b>Measures to be Considered at the Time of Future Development</b></p> <p><i>The following project-level measure shall be implemented as applicable at the time of future development to reduce hazardous materials impacts:</i></p> <p><b>MM HAZ-1&amp;2:</b> As part of any future project-level environmental review for future development on the site, soil samples shall be collected near the visually impacted areas on apns 779-04-010, 779-04-056 and 779-04-056 -067 determine the lateral and vertical extent of impacted soils. Impacted soils at the project site shall be over-excavated. Confirmation soil samples shall be collected to document that all impacted soil has been removed. Soil removed from the project site shall be appropriately disposed of as a California hazardous waste (per title 22 of the California code of regulations), with additional analysis and sampling completed per requirements of the permitted landfill facility accepting the impacted soil.</p> <p>The source and quality of all imported soil during construction activities shall be documented per the guidance of the California Department of Toxic Substances Control.</p>	<p>determine the lateral and vertical extent of impacted soils</p>	<p>mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p> <p>A soil sampling report shall be provided to the City.</p>	

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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p><b>Impact HAZ-3:</b> Soils on the site may contain significant levels of agricultural chemicals. <b>(Significant Impact)</b></p>	<p style="text-align: center;"><b>General Plan Policies</b></p> <ul style="list-style-type: none"> <li>• <i>Hazardous Materials Policy 3f</i> - Require submittal of a hazardous materials handling plan as a prerequisite for developments requiring zone changes and use permits. (SCJAP 9.04)</li> <li>• <i>Hazardous Materials Policy 3t</i> - Provide mitigation to remedy the effects of new or expanding development over areas with environmental contamination of any and all unauthorized discharges.</li> </ul> <p style="text-align: center;"><b>Other Programmed Mitigation and Avoidance Measures</b></p> <ul style="list-style-type: none"> <li>• Any necessary clean up and/or remediation would be required to meet all Federal, State, and local regulations. All storage tanks will be properly closed and removed, according to Santa Clara County Fire Department standards, prior to development.</li> </ul> <p style="text-align: center;"><b>Measures to be Considered at the Time of Future Development</b></p> <p><i>The following project-level measure shall be implemented as applicable at the time of future development to reduce hazards and hazardous materials impacts:</i></p> <p><b>MM HAZ-3:</b> As part of any future project-level environmental review for future development on the site, soil sampling and laboratory analyses shall be completed to evaluate the residual pesticide concentrations in soils historically used for agriculture on the project site. If further evaluation indicates the presence of impacted soil, a remediation program for on-site soil removal shall be prepared to the satisfaction of the Director of Planning and the Regional Water Quality Control Board (RWQCB) or other appropriate regulatory agencies.</p>	<p>As part of any future project-level environmental review for future development on the site, soil sampling and laboratory analyses shall be completed to evaluate the residual pesticide concentrations in soils historically used for agriculture on the project site.</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p> <p>A soil sampling report shall be provided to the City.</p>	<p>Director of Community Development Agency</p>



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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p style="text-align: center;">If imported soil is used during project construction, the source and quality of the imported soil should be evaluated and documented per the guidance of the California Department of Toxic Substances Control.</p>			
<p><b>Impact HAZ-4:</b>                      Future development on the site may support processes that would emit or require the use or transport of hazardous materials in close proximity to residential uses and a school.  <b>(Significant Impact)</b></p>	<p style="text-align: center;"><b>General Plan Policies</b></p> <ul style="list-style-type: none"> <li>• <i>Hazardous Materials Policy 3a</i> - In order to minimize potential hazards, require generators of hazardous waste to use on-site pretreatment prior to discharging treated waste effluent into the sewer system, using such methods as neutralization, precipitation and oxidation. (SCJAP 9.05)</li> <li>• <i>Hazardous Materials Policy 3b</i> - Continue a program of regular inspections and monitoring to ensure compliance with local, State, and Federal regulations, in order to reduce the risks associated with the use and handling of hazardous materials and wastes. (SCJAP 9.00)</li> <li>• <i>Hazardous Materials Policy 3c</i> - Continue to implement the Joint Powers Pretreatment Program for industrial and commercial hazardous material users and/or hazardous waste generators, and coordinate as appropriate with MOU inspections, Hazardous Materials Storage Ordinance (HMSO) regulations, and implementation of applicable State laws. (SCJAP 9.01)</li> <li>• <i>Hazardous Materials Policy 3d</i> - Continue to inspect regularly activities that store and/or use hazardous materials, including above-ground and underground storage tanks and related equipment, to ensure compliance with the City's Hazardous Materials Storage Ordinance (HMSO). (SCJAP 9.02)</li> <li>• <i>Hazardous Materials Policy 3e</i> - Regularly inspect those facilities which store hazardous waste on site for less than 90 days (a time period for which a hazardous materials storage permit is not required). (SCJAP 9.03)</li> </ul>	<p>To be implemented by the applicant during project-level design, prior to approval of a specific detailed site plan.</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p>	<p>Director of Community Development Agency</p>

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<ul style="list-style-type: none"> <li>• <i>Hazardous Materials Policy 3f</i> - Require submittal of a hazardous materials handling plan as a prerequisite for developments requiring zone changes and use permits. (SCJAP 9.04)</li> <li>• <i>Hazardous Materials Policy 3g</i> - Support County and Santa Clara Valley Water District programs to encourage source reduction and waste minimization by smaller firms which generate hazardous wastes. (SCJAP 9.06)</li> <li>• <i>Hazardous Materials Policy 3i</i> - Work with Gilroy, Santa Clara County, Santa Clara Valley Water District, Regional Water Quality Control Board, and local community groups to coordinate and implement public education programs regarding hazardous materials and waste management. (SCJAP 9.08)</li> <li>• <i>Hazardous Materials Policy 3j</i> - During the implementation of "AB 2185" (Calif. Health and Safety Code Chap. 6.95 Division 20 Section 25500 et seq.) and successor legislation, make major efforts to achieve maximum integration between newly-mandated actions and ongoing hazardous materials programs, particularly as they apply to: a) coordinated permit and fee structure, b) coordinated inspections, c) emergency response ("business") plans, d) training programs, e) evacuation requirements, and f) information requirements. (SCJAP 9.09)</li> <li>• <i>Hazardous Materials Policy 3k</i> - Monitor the transportation of hazardous materials and wastes to reduce risks and ensure notification of South County jurisdictions in the event of a leak or spill. (SCJAP 9.10)</li> <li>• <i>Hazardous Materials Policy 3l</i> - Consider designating specific transportation routes for the conveyance of hazardous materials and waste, if the City desires hazardous materials and waste to be transported on routes other than designated truck routes. (SCJAP 9.13)</li> <li>• <i>Hazardous Materials Policy 3m</i> - Support the County's implementation of a Memorandum of Understanding (MOU) between the Department</li> </ul>			

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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>of Health Services (DOHS) and the County Health Department, whereby the County would act as an agent in requiring hazardous material users and waste generators to provide annual records and in monitoring the haulers of hazardous materials and waste. (SCJAP 9.14)</p> <ul style="list-style-type: none"> <li>• <i>Hazardous Materials Policy 3n</i> - To reduce the risk involved in transporting hazardous waste and decrease the volume of waste that must be disposed of, encourage the generators of hazardous waste to use on-site pretreatment, such as: neutralization, precipitation and oxidation. (SCJAP 9.15)</li> <li>• <i>Hazardous Materials Policy 3q</i> - The Santa Clara County Hazardous Waste Management Plan is herewith incorporated in this General Plan by reference. It is a City policy to restrict off-site hazardous materials operations (Hazardous Materials Reprocessing uses as defined by the Zoning Ordinance) to industrially-zoned sites which have received Conditional Use Permits and which comply with the Santa Clara County Hazardous Waste management Plan or a City-designated equivalent.</li> <li>• <i>Hazardous Materials Policy 3r</i> - Require off-site hazardous materials operations to obtain permits through the process designated in Section 25199 of the California Health and Safety Code, including the Notice of Intent (NOI) and Local Assessment Committee (LAC) steps where applicable.</li> <li>• <i>Hazardous Materials Policy 3s</i> - Continue to allow Small Quantity Generators such as photo laboratories and dry cleaners to locate in appropriate commercial and industrial zones without requiring additional hazardous materials permits, providing that such uses comply with other Federal, State and local hazardous materials laws and regulations and providing that the site does not accept hazardous waste from off-site for reprocessing.</li> <li>• <i>Hazardous Materials Policy 3t</i> - Provide mitigation to remedy the effects of new or expanding development over areas with</li> </ul>			

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Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>environmental contamination of any and all unauthorized discharges.</p> <ul style="list-style-type: none"> <li>• <i>Hazardous Materials Action 3.1</i> - Enforce hazardous waste facility inspection via a Memorandum of Understanding between State Department of Health Services (DOHS) and County Health Department whereby the County Health Department would act as an agent of DOHS in enforcing this provision, and City Hazardous Materials Specialists and Pretreatment Inspectors may conduct inspections. (SCJAP 9.03)</li> <li>• <i>Hazardous Materials Action 3.2</i> - Require that the South County jurisdictions receive reports from the Department of Transportation and the California Highway Patrol regarding spills or leaks on the highway. (SCJAP 9.11)</li> <li>• <i>Hazardous Materials Action 3.3</i> - If a spill occurs while transporting hazardous materials or waste in one of the South County cities or the County, immediately notify the other jurisdictions. (SCJAP 9.12)</li> </ul> <p style="text-align: center;"><b>Other Programmed Mitigation and Avoidance Measures</b></p> <ul style="list-style-type: none"> <li>• <i>AB2185 and AB3777</i> contain requirements for emergency response plans. The purpose of these plans is to assist local agencies in preparing for a hazardous material spill. Emergency plans identify the potential for accidents in a community, define a chain of command in the event of an emergency, outline escape routes if necessary, and provide other emergency procedures. Each responsible agency maintains detailed operation procedures for responses to hazardous material spills.</li> <li>• Any necessary clean up and/or remediation would be required to meet all Federal, State, and local regulations. All storage tanks will be properly closed and removed, according to Santa Clara County Fire Department standards, prior to development.</li> </ul>			



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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>

**HYDROLOGY AND WATER QUALITY**

<p><b>Impact HYDRO-1:</b> Future development allowed by the proposed project would substantially increase stormwater runoff generated by the site. <b>(Significant Impact)</b></p>	<p align="center"><b>General Plan and Municipal Code Policies</b></p> <ul style="list-style-type: none"> <li>• <i>Sewer Capacity, Water Supply and Storm Drainage Policy 22b</i> – Residents Served by Local Drainage Facilities Should Pay for their Construction and Maintenance</li> <li>• <i>Sewer Capacity, Water Supply and Storm Drainage Action 22.2</i> – Developers Mitigate Drainage Impacts</li> <li>• <i>Sewer Capacity, Water Supply and Storm Drainage Action 22.4</i> – Requires Storm Water Management Plan for Proposed Development</li> <li>• <i>Sewer Capacity, Water Supply and Storm Drainage Action 22.6</i> - Requires Developers to Mitigate Drainage Impacts and Protect Groundwater Quality</li> <li>• <i>Sewer Capacity, Water Supply and Storm Drainage Action 22.8</i> – Compatibility of Detention and Retention Provided with Storm Drainage System Capacity</li> <li>• <i>Flood Control Policy 4h</i> – Development Should Minimize Off-site Flooding/Drainage Problems</li> <li>• <i>Flood Control Policy 4o</i> – Limit Runoff to Pre-development Levels</li> <li>• <i>Flood Control Policy 4p</i> – Require careful consideration of the cumulative effects of development which would drain into the upper reaches of Llagas Creek and other creeks, in order to avoid the need for channelization and consequent destruction of its riparian vegetation and natural habitat. (SCJAP 12.09)</li> <li>• <i>Flood Control Action 4.4</i> – Project Review by Santa Clara Valley Water District Prior to City Approval</li> </ul>	<p>To be implemented by the applicant during project-level design, prior to approval of a specific detailed site plan.</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p>	<p>Director of Community Development Agency</p>
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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<ul style="list-style-type: none"> <li>• <i>Water Quality Policy 5a</i> – Protect water quality from contamination, and monitor it to assure the present policies and regulations are adequate. Prohibit such uses as waste facilities, septic systems, and industries using toxic chemicals whereby polluting substances may come in contact with groundwater, floodwaters, and creeks, or reservoir waters. (SCJAP 8.00)</li> <li>• <i>MHMC Chapter 17.32 Improvement and Improvement Agreements</i></li> <li>• <i>MHMC Chapter 3.56 Storm Drainage Impact Fee</i></li> </ul>			
<p><b>Impact HYDRO-2:</b> Future development on the project site would be subject to flooding from West Little Llagas Creek. <b>(Significant Impact)</b></p>	<p align="center"><b>General Plan and Municipal Code Policies</b></p> <ul style="list-style-type: none"> <li>• <i>Flood Control Policy 4b</i> – Prohibit Development in Floodways &amp; Regulate in Floodplains</li> <li>• <i>Flood Control Policy 4e</i> – Leave Streamside and Riparian Areas in Natural State</li> <li>• <i>Flood Control Policy 4h</i> – Development Should Minimize Off-site Flooding/Drainage Problems</li> <li>• <i>Flood Control Policy 4j</i> – Fund Flood Control Facilities Locally in Absence of Federal/State Funds</li> <li>• <i>Flood Control Policy 4k</i> – Mitigate Flood-Inducing Impacts of New Development</li> <li>• <i>Flood Control Policy 4l</i> – Floodproof Development at Developers’ Expense (SCJAP 12.05)</li> <li>• <i>Flood Control Policy 4m</i> – Pad Up Structures In Appropriate Situations</li> <li>• <i>Flood Control Policy 4p</i> – Require careful consideration of the cumulative effects of development which would drain into the upper reaches of Llagas Creek and other creeks, in order to avoid the need for channelization and consequent destruction of its riparian vegetation and natural habitat. (SCJAP 12.09)</li> <li>• <i>Flood Control Action 4.2</i> – Designate Floodways as Open Space &amp; Prohibiting Construction</li> </ul>	<p>To be implemented by the applicant during project-level design, prior to approval of a specific detailed site plan.</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p>	<p>Director of Community Development Agency</p>

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<ul style="list-style-type: none"> <li>• <i>Flood Control Action 4.4</i> – Project Review by Santa Clara Valley Water District Prior to City Approval</li> <li>• <i>Flood Control Action 4.6</i> – Require Dedication of Floodway and Floodplain Areas Pursuant to the PL566 Drainage Program</li> <li>• <i>Water Quality Policy 5a</i> – Protect water quality from contamination, and monitor it to assure the present policies and regulations are adequate. Prohibit such uses as waste facilities, septic systems, and industries using toxic chemicals whereby polluting substances may come in contact with groundwater, floodwaters, and creeks, or reservoir waters. (SCJAP 8.00)</li> <li>• <i>MHMC Chapter 17.32 Improvement and Improvement Agreements</i></li> <li>• <i>MHMC Chapter 18.42 Flood Damage Prevention</i></li> </ul>			
<b>NOISE</b>				
<p><b>Impact NOI-1:</b> Future residential development on the project site would potentially be exposed to exterior noise levels exceeding 60 dBA L<sub>dn</sub> from traffic noise. Exterior noise levels exceeding the acceptable General Plan standards would result in significant impacts</p>	<p align="center"><b>General Plan and Municipal Code Policies</b></p> <ul style="list-style-type: none"> <li>• <i>Public Health and Safety Policy 7a</i> - New development projects shall be designated and constructed to meet acceptable exterior noise level standards, as follows: <ul style="list-style-type: none"> <li>- The maximum exterior noise level of 60 dBA L<sub>dn</sub> shall be applied in residential areas where outdoor noise is a major consideration (e.g., backyards in single family housing developments and recreation areas in multi-family housing projects.) Where the city determines that providing an L<sub>dn</sub> of 60 dBA or lower cannot be achieved after the application of reasonable and feasible mitigation, an L<sub>dn</sub> of 65 dBA may be permitted.</li> <li>- Indoor noise levels should not exceed an Ldn of 45 dBA in new residential housing units.</li> <li>- Noise levels in a new residential development exposed to an</li> </ul> </li> </ul>	<p>To be implemented by the applicant during project-level design, prior to approval of a specific detailed site plan.</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies</p>	<p>Director of Community Development Agency</p>

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
<p>to outdoor spaces in new residential development.  <b>(Significant Impact)</b></p>	<p>exterior L<sub>dn</sub> of 60 dBA or greater should be limited to a maximum instantaneous noise level (e.g., trucks on busy streets, train warning whistles) in bedrooms of 50 dBA. Maximum instantaneous noise levels in all other habitable rooms should not exceed 55 dBA. The maximum outdoor noise level for new residences near the railroad shall be 70 dBA L<sub>dn</sub>, recognizing that train noise is characterized by relatively few loud events.</p> <ul style="list-style-type: none"> <li>• <i>Public Health and Safety Policy 7b</i> - The impact of a proposed development project on existing land uses should be evaluated in terms of the potential for adverse community response based on significant increase in existing noise levels, regardless of compatibility guidelines.</li> <li>• <i>Public Health and Safety Policy 7e</i> - Noise level increases resulting from traffic associated with new projects shall be considered significant if: a) the noise level increase is 5 dBA L<sub>dn</sub> or greater, with a future noise level of less than 60 dBA L<sub>dn</sub>, or b) the noise level increase is 3 dBA L<sub>dn</sub> or greater, with a future noise level of 60 dBA L<sub>dn</sub> or greater.</li> <li>• <i>Public Health and Safety Policy 7f</i> - Noise levels produced by stationary noise sources associated with new projects shall be considered significant if they substantially exceed ambient noise levels.</li> <li>• <i>Community Development Action 12.2</i> - In requiring noise impact mitigation of new and/or expanded development, the City shall promote the use of techniques less visually disturbing than sound walls-including but not limited to earthen berms and intervening placement of non-sensitive buildings.</li> <li>• <i>MHMC Chapter 18.48.075 Noise</i> - At the lot line of all uses specified in Section 18.48.010, the maximum sound generated by any use shall not exceed seventy to seventy-five db(A) when</li> </ul>			



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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>adjacent uses are industrial or wholesale uses. When adjacent to offices, retail or sensitive industries, the sound level shall be limited to sixty-five to seventy db(A). When uses are adjacent or contiguous to residential, park or institutional uses, the maximum sound level shall not exceed sixty db(A). Excluded from these standards are occasional sounds generated by the movement of railroad equipment, temporary construction activities, or warning devices.</p> <p style="text-align: center;"><b>2010 California Building Code</b></p> <p>Multi-family housing (including congregate care) in the State of California is subject to the environmental noise limits set forth in the 2010 California Building Code. Per the 2010 California Building Code, the maximum interior noise level limit is a of 45 dBA L<sub>dn</sub>. Where exterior noise levels exceed 60 dBA L<sub>dn</sub>, a report must be submitted to the City with the building plans describing the noise control measures that have been incorporated into the design of the project to meet the noise limit.</p> <p style="text-align: center;"><b>Measures to be Considered at the Time of Future Development</b></p> <p><i>The following project-level measure shall be implemented as applicable at the time of future development to reduce noise impacts:</i></p> <p><b>MM NOI-1:</b> At the time when specific development is proposed on the project site, acoustical studies shall be prepared to ensure that indoor and outdoor noise levels will not exceed the General Plan noise criteria.</p>			
<b>Impact NOI-2:</b> Future construction	<b>Municipal Code Policies</b>	To be implemented by the applicant and	Future projects shall be reviewed	Director of Community

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
<p>on the project site could result in short term noise impacts. <b>(Significant Impact)</b></p>	<ul style="list-style-type: none"> <li><i>MHMC Chapter 8.28.040</i> - Prohibits construction activities between the hours of 8:00 PM and 7:00 AM, Monday through Friday and between the hours of 6:00 PM and 9:00 AM on Saturday. Construction activities may not occur on Sundays or federal holidays.</li> </ul>	<p>contractors during construction.</p>	<p>to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the identified GP policies.</p>	<p>Development Agency</p>

**UTILITIES AND SERVICE SYSTEMS**

<b>Impact UTI-1:</b>	<b>General Plan Policies</b>			
<p>Future development on the site would increase stormwater runoff, which could require the construction of new stormwater drainage facilities. <b>(Significant Impact)</b></p>	<ul style="list-style-type: none"> <li><i>Sewer Capacity, Water Supply and Storm Drainage Policy 20a</i> - Expansion of the joint Gilroy/Morgan Hill Wastewater Treatment Facility should proceed, since additional sewer capacity is a prerequisite for further urban development and urban development is most appropriately served by sanitary sewer systems. (SCJAP 6.00)</li> <li><i>Sewer Capacity, Water Supply and Storm Drainage Policy 20c</i> - Ensure that the total capacity for the Gilroy/Morgan Hill Wastewater Treatment Facility, its timing for completion, and configuration are consistent with SCJAP policies for the overall growth of Morgan Hill and Gilroy.</li> <li><i>Sewer Capacity, Water Supply and Storm Drainage Policy 21a</i> - Manage the supply and use of water more efficiently through appropriate means, such as watershed protection, percolation,</li> </ul>	<p>To be implemented by the applicant during project-level design, prior to approval of a specific detailed site plan.</p> <p>A Storm Drainage Study shall be submitted to the Director of Public Works for review and approval prior to issuance of a grading</p>	<p>Future projects shall be reviewed to ensure consistency with General Plan policies and other applicable regulations. Project-level mitigation measures shall be adopted, as appropriate to implement the</p>	<p>Director of Community Development Agency</p> <p>Director of Public Works</p>

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<b>Impact(s)</b>	<b>Mitigation and Avoidance Measures</b>	<b>Timeframe and Responsibility for Implementation</b>	<b>Method of Compliance</b>	<b>Oversight of Implementation</b>
	<p>conservation and reclamation. (SCJAP 7.00)</p> <ul style="list-style-type: none"> <li>• <i>Sewer Capacity, Water Supply and Storm Drainage Policy 21b</i> - Ensure that new development does not exceed the water supply. (SCJAP 7.08)</li> <li>• <i>Sewer Capacity, Water Supply and Storm Drainage Policy 22a</i> - Address issues related to flooding throughout the city.</li> <li>• <i>Sewer Capacity, Water Supply and Storm Drainage Policy 22b</i> - Ensure that those residents who benefit from, as well as those who contribute to the need for, local drainage facilities pay for them. (SCJAP 13.02)</li> </ul> <p align="center"><b>City of Morgan Hill Standard Measures</b></p> <p>In accordance with the City of Morgan Hill Standard Conditions of Approval, future development on the project site would prepare and submit a Storm Drainage Study to the Director of Public Works for review and approval. The Study would include calculations to determine detention and operations and demonstrate how the runoff rate from the proposed project would be less than or equal to existing conditions.</p>	<p>permit.</p>	<p>identified GP policies.</p>	

**SOURCE:** City of Morgan Hill, Monterey – South of Watsonville Project Initial Study, October 2011.

***INITIAL STUDY***

**Monterey-South of Watsonville  
Project**

(USAs 06-01, 08-08, and 08-09; GPAs 07-02, 08-08, and 08-09; and  
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**October 2011**



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## APPENDICES

Appendix A:	Land Evaluation and Site Assessment (LESA)
Appendix B:	Biological Evaluation
Appendix C:	GHG and Air Quality Model Outputs
Appendix D:	Phase I Environmental Site Assessment
Appendix E:	Transportation Impact Analysis

## **SECTION 1 INTRODUCTION AND PURPOSE**

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This Initial Study of environmental impacts is being prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 *et seq.*), the Local Agency Formation Commission (LAFCO), and the regulations and policies of the City of Morgan Hill.

This Initial Study will evaluate at a programmatic level the potential environmental impacts that might be reasonably anticipated to result from the proposed inclusion of the three sites totaling 67.39 acres into the City of Morgan Hill's Urban Service Area. The Initial Study will also evaluate the environmental impacts that may result from General Plan Amendments (GPAs) and prezonings or rezoning for three sites in the City of Morgan Hill.

## **SECTION 2 PROJECT INFORMATION**

---

### **2.1 PROJECT TITLE**

Urban Service Area Amendment and General Plan Amendments and Prezonings/Rezoning on Three Sites

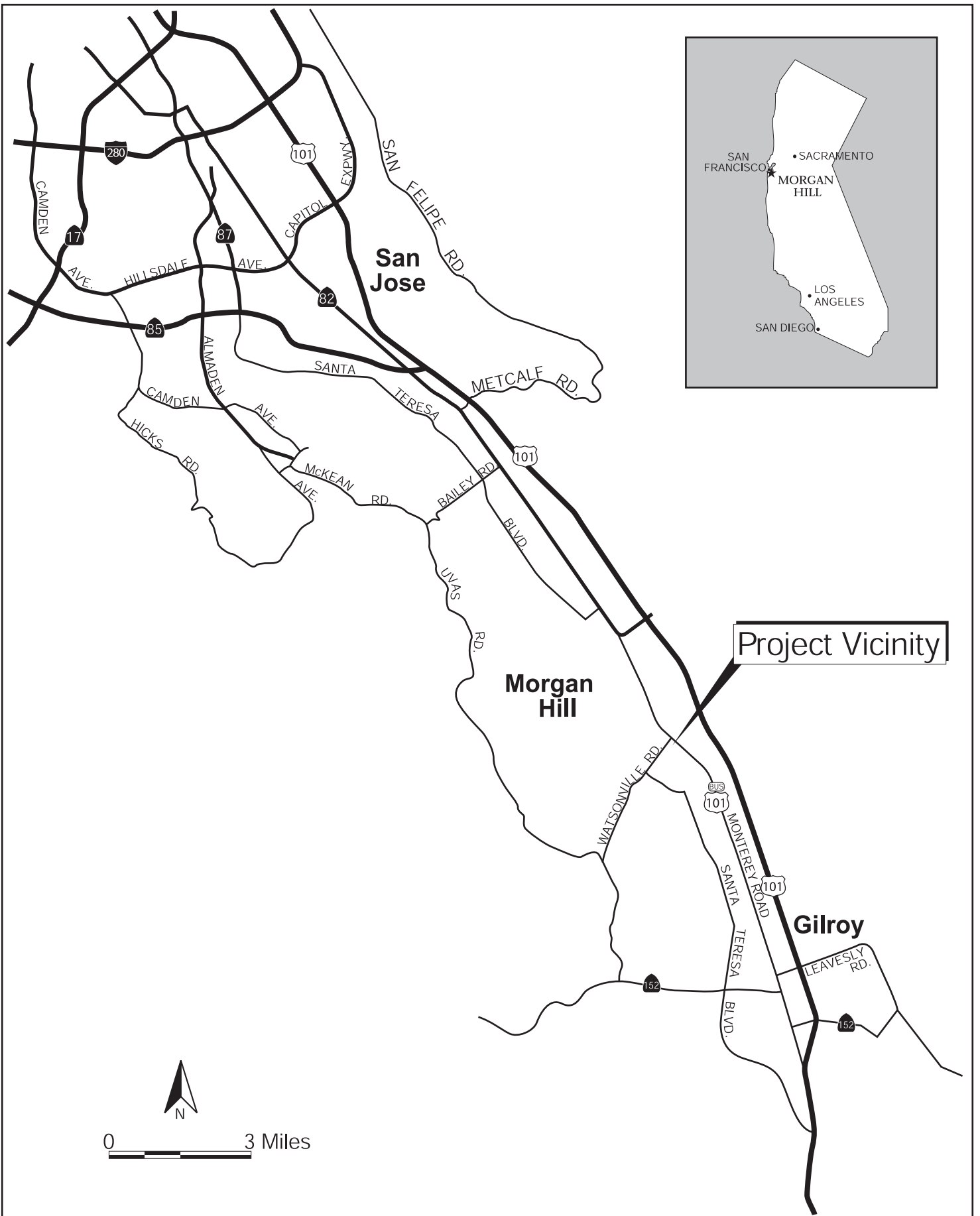
### **2.2 PROJECT LOCATION**

The proposed Urban Service Area (USA) Amendment would include three sites (17 parcels and 67.39 acres) within the City of Morgan Hill. The separate General Plan Amendments (GPAs) and Prezonings/Rezoning will affect each parcel within the three sites, individually. The regional location of the three project sites are shown in Figure 1.

The location of the three sites is described below.

- 1. Watsonville-Royal Oaks:** This site includes six parcels totaling 17.34 acres located south of Watsonville Road and southeast of Monterey Road. The site is immediately north of the Monterey-City of Morgan Hill site. The entire site is located outside the city limits.
- 2. Monterey-City of Morgan Hill:** This site includes nine parcels on 40.57 acres located southeast of the intersection of Monterey Road and Watsonville Road. The site is between the Watsonville-Royal Oaks site and the Monterey-Morgan Hill Bible Church site. Seven of the parcels on the site are located within the city limits.
- 3. Monterey-Morgan Hill Bible Church:** This site includes two parcels totaling 9.48 acres located southeast of Monterey Road between John Wilson Way and West Middle Avenue, immediately south of the Monterey-City of Morgan Hill site.

Figure 2 is a vicinity map showing the location of all three sites, and Figure 3 shows an aerial of the three sites and surrounding uses.

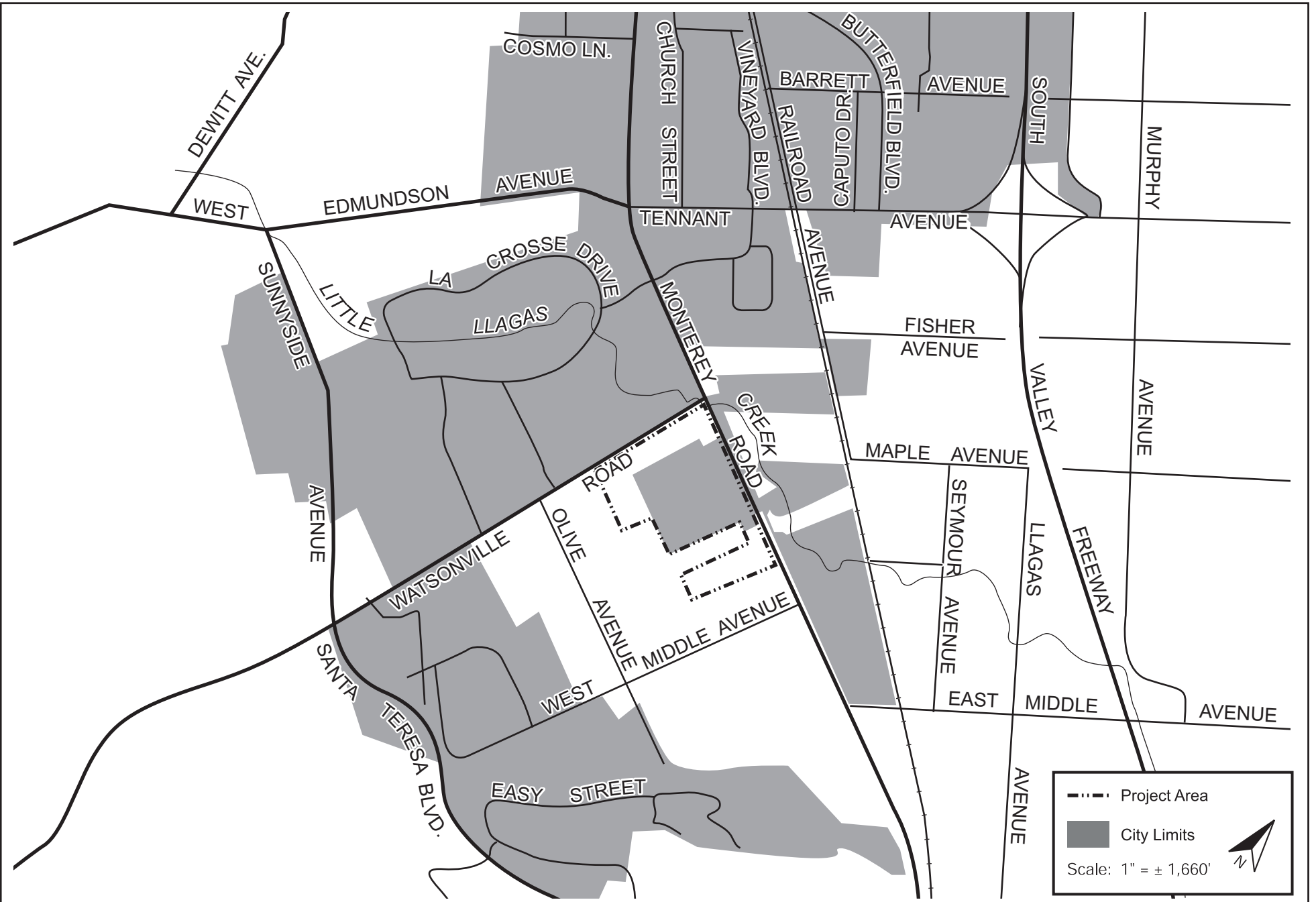


Project Vicinity

REGIONAL MAP

FIGURE 1





VICINITY MAP

FIGURE 2





AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 3

### **2.3 PROPERTY OWNERS/PROPONENT**

City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037  
(408) 778-6480

A full list of property owners is on file at the Morgan Hill Community Development Agency.

### **2.4 LEAD AGENCY CONTACT**

City of Morgan Hill  
Community Development Agency  
Rebecca Tolentino, Senior Planner  
17575 Peak Avenue  
Morgan Hill, CA 95037  
(408) 778-6480

### **2.5 ASSESSOR'S PARCEL NUMBERS (THREE SITES)**

**Watsonville-Royal Oaks:** 779-04-001, 779-04-003, 779-04-004, 779-04-052, 779-04-056, and 779-04-067

**Monterey-City of Morgan Hill:** 779-04-005, 779-04-010, 779-04-015, 779-04-030, 779-04-032, 779-04-033, 779-04-074, 779-04-072, and 779-04-073

**Monterey-Morgan Hill Bible Church:** 779-04-016 and 779-04-061

**2.6 ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS**

<b>Table 2.0-1: Existing and Proposed Project General Plan and Zoning Designations</b>						
<b>Site/File No.</b>	<b>Acres</b>	<b>Parcels</b>	<b>General Plan</b>		<b>MH Zoning</b>	
			<b>Existing</b>	<b>Proposed</b>	<b>Existing</b>	<b>Proposed</b>
<b>Watsonville-Royal Oaks</b> USA-06-01, GPA-07-02, ZA-08-09	0.11	779-04-001	Single Family Medium (SFM)	Non-Retail Commercial (NRC)	Agriculture (A-20Ac)*	Light Commercial Residential (CL-R)
	0.34	779-04-003	SFM	NRC	A-20Ac*	CL-R
	0.34	779-04-004	SFM	NRC	A-20Ac*	CL-R
	7.5 gross (g)/ 7.38 net (n)	779-04-052	SFM	Multi-Family Medium (MFM)	A-20Ac*	R3/PD
	8.19(n)	779-04-056	SFM	NRC	A-20Ac*	CL-R/PD
	0.86	779-04-067	Open Space (OS)	--	A-20Ac*	OS
<b>Monterey-City of Morgan Hill</b> USA-08-09, GPA-08-09, ZA-08-10	0.44	779-04-005	SFM	NRC	Single Family District (RE(100,000))	CL-R
	1.38	779-04-010	Single Family Low (SFL)	NRC	A-20Ac*	CL-R
	0.42	779-04-015	SFL	NRC	A-20Ac*	CL-R
	0.68	779-04-030	SFM	NRC	RE(100,000)	CL-R
	.63(g)/.55(n)	779-04-032	SFM	NRC	RE(100,000)	CL-R
	.27(g)/.23(n)	779-04-033	SFM	NRC	RE(100,000)	CL-R
	7.14(g)/6.12(n)	779-04-074	SFM	NRC	RE(100,000)	CL-R
	5.02	779-04-072	SFM	NRC	RE(100,000)	CL-R
24.59	779-04-073	SFM	--	RE(100,000)	Single Family District (R1(9,000))	
<b>Monterey-Morgan Hill Bible Church</b> USA-08-08, GPA-08-08, ZA-08-08	3.98(g)/3.93(n)	779-04-016	SFL	Public Facility (PF)	A-20Ac*	PF
	5.50(g)/4.76(n)	779-04-061	SFL	PF	A-20Ac*	PF

Notes:  
 \* denotes unincorporated parcels where the Santa Clara County zoning district is listed  
 g = gross acreage (total acreage on the parcel)  
 n = net acreage (gross acreage minus land dedicated to easements or public use)



## **SECTION 3      PROJECT DESCRIPTION**

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### **3.1      OVERVIEW**

The City proposes to expand the Urban Service Area (USA) to allow for future urban development on a 67.39-acre area, some of which is currently developed and/or located within the City of Morgan Hill but outside the USA. The project site is comprised of three sub-areas consisting of various uses, including a mushroom processing facility, the Oakwood Country School, single-family residences, commercial uses, Santa Clara Valley Water District land, and the Morgan Hill Bible Church. In order for the site to be developed/redeveloped with urban uses, the City must prezone and annex<sup>1</sup> some of the parcels, and expand the USA boundary to provide urban services to those parcels. The project is also proposing various General Plan land use designation changes (General Plan Amendments (GPAs)) and rezonings on these three sub-areas to allow for mixed use commercial and residential development, as well as the expansion of the Morgan Hill Bible Church. The proposed USA expansion, GPAs, and rezonings provide regulatory changes that guide future development of the project area, and would not result in any immediate physical construction. The proposed actions would provide the appropriate regulatory framework for future development of the parcels with urban uses as forecast in this Initial Study. Future project-specific environmental review would occur prior to any actual development on any of the parcels, with the exception of the Oakwood Country School site, where project-level CEQA review has already been completed in conjunction with the approved Use Permit.

The components of the proposed project are described in greater detail below. Table 2.0-1 provides a summary of the proposed GPAs and zoning changes.

#### **3.1.1      Urban Service Area Expansion**

The project area is located inside the Urban Growth Boundary (UGB), but is located outside the Urban Service Area (USA) for the City of Morgan Hill.<sup>2</sup> The USA is the boundary for which urban services (sewer, water, gas, garbage, etc.) are provided within the City. It is the policy of Santa Clara County that urban development can only occur within a City's USA and City limits. Some of the project parcels are within the City limit, while others are not; therefore, portions of the project area must be annexed into the City of Morgan Hill and included within the USA prior to any future development. The existing City and USA boundary runs along Watsonville Road, at the northwestern portion of the site, as shown in Figure 4. In conjunction with the inclusion of the project area within the USA and City limits, all existing County parcels require pre-zoning in order to be consistent with the City's existing and/or proposed land use designations.

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<sup>1</sup> Although no applications for annexation have been submitted, annexations would be filed at some future point prior to the parcels coming into the city and developing with urban uses as proposed by the GPAs.

<sup>2</sup> The City's Urban Growth Boundary (UGB) is an officially adopted and mapped line dividing land to be developed from land to be protected for natural or rural uses, including agriculture. UGBs are regulatory tools, often designated for 20 or more years to provide greater certainty for both development and conservation goals. The Urban Services Area (USA) is the area within the UGB where utilities such as gas, water, sewer, and electricity, and public services such as police, fire, schools, and parks and recreation are and will be provided.

### **3.1.1.2 Site 1: Watsonville-Royal Oaks**

The Watsonville-Royal Oaks site includes six parcels totaling 17.34 acres, all of which are outside the City limit and USA. The site is currently developed with a mushroom processing facility. The remainder of the site is vacant land. A portion of the site is vacant land owned by Santa Clara Valley Water District for flood control purposes. Figure 4 shows the individual project site and parcels within the project area. Land use designation changes are proposed on four of the site parcels (779-04-001, 779-04-003, 779-04-004, and 779-06-056) from *Single Family Medium (SFM)* to *Non-Retail Commercial*, with rezoning to *Light Commercial-Residential (CL-R)* from County Agriculture (*A-20Ac*). The proposed GPA is intended to accommodate mixed use residential and commercial uses on 8.98 acres of the project site. Uses allowed under *Light Commercial-Residential (CL-R)* include office, commercial, retail, restaurants, social services, public facilities, and residential uses at a density of one dwelling per 2,400 gross square feet or greater, amongst others. This zoning district is compatible with the City's General Plan Land Use designation of *Non-Retail Commercial*.

On one of the parcels (779-04-052), a General Plan Amendment (GPA) from *Single Family Medium (SFM)* to *Multi-Family Medium (MFM)*, and rezoning to *Medium-Density Residential (R3)/Planned Development (PD)* from Agriculture (*A-20Ac*) is proposed to allow for future development of a Senior Assisted Living Facility. The proposed GPA on the parcel would allow for a density of 14-21 dwelling units per acre.

The remaining parcel (779-04-067) is Santa Clara Valley Water District property adjacent to West Little Llagas Creek and will be rezoned to *Open Space (OS)* from Agriculture (*A-20Ac*) to allow for consistency with the General Plan *Open Space (OS)* designation. Any future physical changes to the property undertaken by the SCVWD would be subject to environmental review by the District as Lead Agency. The proposed GPA and rezoning are not anticipated to result in any foreseeable physical changes; rather, they reflect the current use of the property.

Parcels 779-04-056 and 779-04-052 include a *Planned Development (PD)* which allows for flexibility in the zoning district development standards.

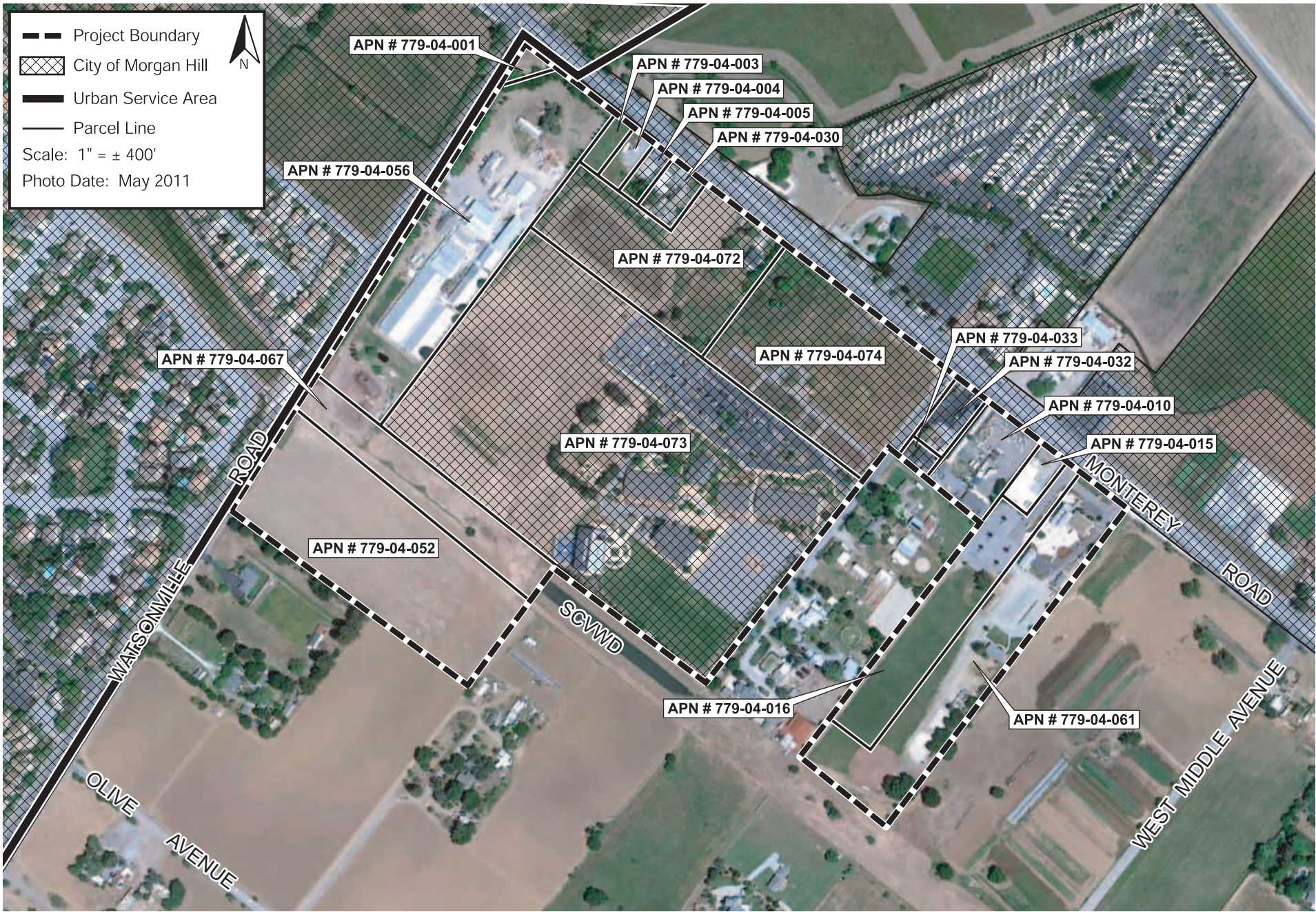
Anticipated future development on the 17.34 acre site would include 100 multi-family units, 180 senior units, and 6,000 square feet of retail space.

### **3.1.1.3 Site 2: Monterey-City of Morgan Hill**

The second project site includes nine parcels on 40.57 acres, of which seven parcels are located within the City limit but outside the USA. The site is currently developed with the private Oakwood Country School, two single family residences, and a few small businesses.

On six of the parcels (779-04-005, 779-04-030, 779-04-032, 779-04-033, 779-04-074, and 779-04-072) a GPA from *Single Family Medium (SFM)* to *Non-Retail Commercial*, and rezoning to *Light Commercial-Residential (CL-R)* from *RE (100,000)* is proposed. A GPA from *Single Family Low (SFL)* to *Non-Retail Commercial*, and a rezoning to *Light Commercial-Residential (CL-R)* from County Agriculture (*A-20Ac*) is proposed on two of the parcels (779-04-010 and 779-04-015). The proposed rezoning to *Light Commercial-Residential (CL-R)* is intended to accommodate mixed use residential and commercial uses on 15.98 acres of the project site. This zoning district is compatible with the City's General Plan Land Use designation of *Non-Retail Commercial*.





URBAN SERVICE AREA , URBAN GROWTH BOUNDARY AND CITY LIMIT

FIGURE 4



The Oakwood Country School is located on the remaining parcel (779-04-073). The City of Morgan Hill GP designation of *Single Family Medium (SFM)* will remain the same on the school site, but a zoning change from *RE(100,000)* to *Single Family District R1(9,000)* is proposed. The existing school of 347 students has been approved for expansion for up to 776 students under a Use Permit issued by the City of Morgan Hill in 2004. The Oakwood Country School needs no additional discretionary actions from the City to expand, so this Initial Study acknowledges the existing valid entitlements for that site and the physical changes that can occur to the property as ‘background’ conditions, but they are not specifically the subject of the Initial Study, save for discussion of cumulative impacts. The purpose of rezoning the school site is to have the zoning district in conformance with the General Plan land use designation for the site, but it will not authorize any additional development that cannot already occur under the current zoning and approved Use Permit.

No specific development is proposed by the project; the project is only the GPA, pre-zoning, and USA adjustment. For the purposes of this Initial Study, a likely development scenario for the site is used to evaluate the environmental impacts that might reasonably be anticipated to result from future development under the proposed General Plan land use designation (i.e., *Non-Retail Commercial*), and zoning (i.e., *Light Commercial-Residential*). The likely development scenario for the project site was formulated based on the existing development in the project area and existing development patterns in the City of Morgan Hill on sites similar to the project site. The likely development scenario for the project site includes the following for the 15.98 acres of the site not occupied by the Oakwood Country School: 64,600 square feet of commercial and personal services, 19,400 square feet of extensive retail, 11,000 square feet of office, and 60 multi-family dwelling units.

#### **3.1.1.4            *Site 3: Monterey-Morgan Hill Bible Church***

The Monterey-Morgan Hill Bible Church project site includes two parcels totaling 9.48 acres outside the City limit and USA. The site is currently developed with the Morgan Hill Bible Church facility, including surface parking, a sports field, baseball diamond, and volleyball courts. Pre-zoning of both of the parcels (779-04-016 and 779-04-061) is proposed. The project also includes a GPA from *Single Family Low (SFL)* to *Public Facility (PF)*, and pre-zoning to *Public Facility (PF)* from County *Agriculture (A-20Ac)* for both parcels. The proposed GPA from *Single Family Low (SFL)* to *Public Facility (PF)* is intended to bring the existing Morgan Hill Bible Church facility into conformance with the General Plan land use designation, and accommodate future growth of the church. Anticipated future development would include redeveloping the existing 11,600 square foot (s.f.) church and classrooms with approximately 20,000 s.f. of the same use. The church is a conditional use under the *Public Facilities District* and would maintain consistency with the proposed General Plan Amendment for the site.

#### **3.1.1.5            “Program Level” versus “Project Level” CEQA Review**

The CEQA analysis in this Initial Study is programmatic or “program-level” and addresses the impacts of likely future development that would be allowed under the proposed GPAs and prezonings/rezonings. Prior to future development at the project site, subsequent or supplemental CEQA review will be required at a “project-level” to account for project-specific details including analysis of a detailed site plan, a specific number of dwelling units and/or square footage of commercial uses, proposed grading, infrastructure plans, etc.



## **SECTION 4 ENVIRONMENTAL CHECKLIST AND DISCUSSION OF IMPACTS**

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*This section describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.*

*The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Where appropriate, this section includes an explanation for those adverse impacts determined to be less than significant.*

### **4.1 AESTHETICS**

#### **4.1.1 Setting**

The City of Morgan Hill is a mid-size community located approximately 10 miles south of the City of San Jose, and is developed with a mixture of commercial, office, residential, industrial, school, and public/quasi-public uses.

The project site is flat and there are views of the foothills to the east and west. The project site is not located within any scenic view corridors, nor is it visible from a designated scenic highway.

##### **4.1.1.1 *Watsonville-Royal Oaks***

The six-parcel, 17.34-acre site is located on the east side of Watsonville Road, south of Monterey Road. The northern portion of the site consists of a mushroom processing facility (refer to Photo 1). The facility is comprised of numerous attached warehouse structures and associated equipment yards. The perimeter of the facility is lined with trees of varying size and species. The southern portion of the site consists of undeveloped ruderal grassland (refer to Photo 2).

Ranch-style single family homes surrounded by farmland are adjacent to the southwestern border of the site. The Monterey-City of Monterey site, which is described in further detail below, borders the site to the southeast. Single family homes and undeveloped properties are located northwest of the site across Watsonville Road. Undeveloped ruderal grassland is located northeast of the site across Monterey Road.

##### **4.1.1.2 *Monterey-City of Morgan Hill***

The nine-parcel, 40.57-acre site is located on the south side of Monterey Road, east of Watsonville Road. The northeastern portion of the site that borders Monterey road consists of several small, single-story structures functioning as either residences or small retail operations (refer to Photos 3-6). A large segment of the northeastern portion of the site is occupied by a single family residence and an associated lot consisting of ruderal grassland. The southeastern portion of the site is developed with the Oakwood Country School, which consists of seven large structures ranging from one to two stories in height, paved areas for parking and recreation activities, and recreational fields and play areas (refer to Photo 7). The southwestern portion of the site is undeveloped ruderal grassland.



Photo 1: Mushroom processing facility, looking west from Oakwood Country School site



Photo 2: Vacant portion of Watsonville-Royal Oaks site, looking east from Watsonville Road



Photo 3: Commercial uses on the site, looking west from Monterey Road



Photo 4: Commercial uses on the site, looking south from Monterey Road





Photo 5: Multi-family residences on the site, looking south from Monterey Road



Photo 6: Single family residence on the site, looking south from Monterey Road





Photo 7: Oakwood Country School building, looking south from school parking lot



Photo 8: Morgan Hill Bible Church, looking east from Monterey Road

A small farm with a single family residence borders the site to the southwest. Single family residences with large lots and a portion of the Monterey-Morgan Hill Bible Church site, which is described in further detail below, border the site to the southeast. A mobile home community is located northeast of the site across Monterey Road. The Watsonville-Royal Oaks site described above borders the site to the north and west.

**4.1.1.3 Monterey-Morgan Hill Bible Church**

The two-parcel, 9.48-acre site is located on the south side of Monterey Road between John Wilson Way and West Middle Avenue. The site is developed with the Morgan Hill Bible Church, which is housed in a one story structure with ancillary structures attached (refer to Photo 8). Surface parking is located southwest of the church building, and sports fields and recreation areas are located on the southern portion of the site.

Small farm properties border the site to the southeast. Large-lot single family residences border the site to the west and southwest. The Monterey-City of Morgan Hill site described above borders the northwestern portion of the site. A small hotel and undeveloped ruderal grassland are located northeast of the site across Monterey Road.

**4.1.2 Environmental Checklist and Discussion**

AESTHETICS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1

#### 4.1.2.1 *Visual Character*

The proposed Urban Service Area Amendment (USA), General Plan Amendments (GPA) and rezonings/rezonings would allow future development that would change the visual conditions of the three project sites. The potential changes to the aesthetic character of the sites are discussed in further detail below.

#### **Watsonville-Royal Oaks**

The project proposes a GPA from *Single Family Medium (SFM)* to *Non-Retail Commercial*, with rezoning to *Light Commercial-Residential (CL-R)* from *County Agriculture (A-20Ac)*, on four of the site's six parcels (779-04-001, 779-04-003, 779-04-004, and 779-06-056). The proposed GPA is intended to accommodate mixed use residential and commercial uses on 8.98 acres of the project site, which is currently occupied mainly by the existing mushroom processing facility. These uses would be located along Watsonville Road and Monterey Road.

On one of the two remaining parcels (779-04-052), a GPA from *Single Family Medium (SFM)* to *Multi-Family Medium (MFM)*, and rezoning to *Medium-Density Residential (R3)/Planned Development (PD)* from *County Agriculture (A-20Ac)* is proposed to allow for future development of a Senior Assisted Living Facility. The other remaining parcel (779-04-067) is Santa Clara Valley Water District property adjacent to West Little Llagas Creek and will be rezoned to *Open Space (OS)* from *County Agriculture (A-20Ac)* to allow for consistency with the General Plan *Open Space (OS)* designation. No development is proposed for this parcel.

The overall anticipated future development on the 17.34 acre site would include 100 multi-family units, 180 senior units, and 6,000 square feet of retail space. The future development would change the visual character of the project site by replacing an existing mushroom processing facility and undeveloped ruderal grassland with residential and retail uses. Development standards such as setbacks, building heights, and landscape buffers for the proposed *Light Commercial-Residential (CL-R)* and *Medium Density Residential (R3)* zoning districts on the site are similar to standards for the surrounding zoning districts in the project area, such as the existing *Medium-Density Residential (R2 and R3)* developments west of the site across Watsonville Road, as well as the existing *General Commercial (CG)* and *Light Industrial (ML)* developments on Monterey Road to the west. For these reasons, future development on the site would be visually consistent with residential, commercial, and other uses in the project vicinity.

#### **Monterey-City of Morgan Hill**

On six of the site's nine parcels (779-04-005, 779-04-030, 779-04-032, 779-04-033, 779-04-074, and 779-04-072) a General Plan change from *Single Family Medium (SFM)* to *Non-Retail Commercial*, and rezoning to *Light Commercial-Residential (CL-R)* from *RE (100,000)* is proposed. A GPA from *Single Family Low (SFL)* to *Non-Retail Commercial*, and a rezoning to *Light Commercial-Residential (CL-R)* from *County Agriculture (A-20Ac)* is proposed on two of the remaining parcels (779-04-010 and 779-04-015). The proposed GPAs to *Non-Retail Commercial* are intended to accommodate mixed use residential and commercial uses on 15.98 acres of the project site.

The Oakwood Country School is located on the remaining parcel (779-04-073). The proposed project will not include any additional development that cannot already occur under the current

zoning and approved Use Permit for the school site, the effects of which have been previously analyzed in an Initial Study/Mitigated Negative Declaration, available at the Morgan Hill Community Development Agency, and are incorporated herein by reference.

The overall anticipated development on the 15.98 acres of the site that are not part of the school property would include 64,600 square feet of commercial and personal services, 19,400 square feet of extensive retail, 11,000 square feet of office, and 60 multi-family dwelling units. Existing development on the site consists of several small, single-story structures functioning as either residences or small retail operations. The future development would change the visual character of the project site by allowing residential and commercial uses with larger building footprints and building heights. However, as discussed above, development standards such as setbacks, building heights, and landscape buffers for the proposed *Light Commercial-Residential (CL-R)* zoning district on the site are similar to standards for the surrounding zoning districts in the project area. For these reasons, future development on the site would be visually consistent with residential, commercial, and other uses in the project vicinity.

### **Monterey-Morgan Hill Bible Church**

The project proposes a GPA from *Single Family Low (SFL)* to *Public Facility (PF)*, and rezoning to *Public Facility (PF)* from *County Agriculture (A-20Ac)* on both parcels (779-04-016 and 779-04-061). Anticipated future development would include redeveloping the existing 11,600 square foot (s.f.) church and classrooms with approximately 20,000 s.f. of the same use.

The change in the aesthetic character of the site resulting from the project would be minimal. The expanded church building would be located in the same location as the existing structure, and would be subject to development standards of the *Public Facility (PF)* zoning district, which specify a maximum building height of 35 feet and setbacks equal to the respective front, side and rear yards required in the most restrictive abutting zoning district. The other existing development on the site, such as the sports fields and storage structures, would remain the same.

#### **4.1.2.2 *Impacts Resulting from the Project***

The precise number and location of trees to be removed cannot be precisely determined until a specific site plans are proposed at the project-level stage. Trees which are removed as part of future development would be replaced with plantings of trees at a ratio deemed acceptable by the City of Morgan Hill Community Development Director. Existing mature City-regulated trees which are proposed for preservation as part of future development of the site would be protected through implementation of a tree protection plan.

The final site design of proposed developments resulting from the proposed project would be subject to “project-level” CEQA review and would be reviewed by the City’s Community Development Director or designated staff, and/or the Planning Commission and City Council upon referral or appeal, for consistency with the design guidelines and the existing and planned visual character of the surrounding area. For these reasons, the proposed project would not result in significant, adverse visual or aesthetic impacts.



## Light and Glare

Lighting from future residential, commercial, and public facility development on the site would increase the level of illumination in the area, but would be similar to the lighting at the nearby residences, school, and industrial uses. The City's Municipal Code requires exterior lighting of residences, and any additional lighting, to be designed so lighting is not directed onto adjacent properties and the light source shielded from direct off-site viewing. Building surfaces and outdoor lighting will be subject to administrative design review approval for conformance with City standards as part of the future "project-level" CEQA review. For these reasons, the proposed project would not result in significant light and glare impacts.<sup>3</sup>

### 4.1.2.3 *Program Mitigation and Avoidance Measures*

#### General Plan Policies

Various policies in the City's General Plan were adopted for the purpose of avoiding or mitigating impacts to visual resources resulting from planned development within the City. All future development is subject to General Plan policies, including the following, which would reduce or avoid aesthetics impacts:

- *Built Environment Policy 12a* - Avoid monotony in the appearance of residential development.
- *Built Environment Policy 12e* - Minimize the use of sound walls.
- *Neighborhoods Policy 8c* - Encourage future residential development projects where local streets are safe, convenient and aesthetically pleasing; and where elementary schools and parks are centrally located to serve the immediate residential area.
- *Water Quality Policy 6h* - Preserve and protect mature, healthy trees whenever feasible, particularly native trees and other trees which are of significant size or of significant aesthetic value to immediate vicinity or to the community as a whole.

### 4.1.3 Conclusion

The proposed project would not result in a substantial change in the visual character or quality of the project area, result in construction that would substantially block scenic views of hillside areas, or introduce a substantial new source of light or glare in the area. **(Less Than Significant Impact)**

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<sup>3</sup> Future outdoor sports lighting associated with the Oakwood Country School expansion was analyzed in the Initial Study for that project, and is therefore not analyzed in this Initial Study.

**4.2 AGRICULTURAL AND FOREST RESOURCES**

**4.2.1 Existing Setting**

**4.2.1.1. *Agricultural Resources***

According to the Santa Clara County Important Farmland 2010 Map, portions of the Watsonville-Royal Oaks site are designated as *Prime Farmland*, *Farmland of Statewide Importance*, and *Grazing Land*. Additionally, much of the undeveloped portion of the Monterey-City of Morgan Hill site is designated as *Grazing Land*. *Prime Farmland* is defined as having the best combination of physical and chemical features able to sustain long-term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. *Farmland of Statewide Importance* is similar to *Prime Farmland* but with minor shortcomings, such as greater slopes or less ability to store soil moisture. *Grazing Land* is defined as land on which the existing vegetation is suited to the grazing of livestock. All other land on the project site is designated as *Urban and Built-Up Land*.

Portions of the project site were developed with agricultural uses until the mid 1990’s. Currently, no agricultural activities other than indoor mushroom cultivation occur on the site, and no properties on the site are subject to Williamson Act contracts. The site is bordered by agricultural uses to the south and east.

**4.2.1.2 *Forest Resources***

The City of Morgan Hill includes limited forest land in foothill areas along short reaches of Llagas Creek. Forest land is land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits (California Public Resources Code 12220(g)). The City does not include timberlands as defined in the California Public Resources Code. There is no forest land on or adjacent to the site.

**4.2.2 Environmental Checklist and Discussion**

AGRICULTURAL AND FOREST RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project: 1) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,4

AGRICULTURAL AND FOREST RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,4
3) 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))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,4
4) Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,4
5) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,4

#### 4.2.2.1 Impacts to Farmland

In order to determine the significance of the loss of agricultural land that would result from the project, a Land Evaluation and Site Assessment (LESA) was completed for this project<sup>4</sup> per the methods prescribed by the California Agricultural Land Evaluation and Site Assessment Model Instruction Manual<sup>5</sup> (1997). The following is a brief LESA definition and history, and a description of the factors analyzed in determining the final LESA score.

*Land Evaluation and Site Assessment (LESA) is a term used to define an approach for rating the relative quality of land resources based upon specific measurable features. The formulation of a California Agricultural LESA Model is the result of Senate Bill 850 (Chapter 812/1993), which charges the Resources Agency, in consultation with the Governor's Office of Planning and Research, with developing an amendment to Appendix G of the California Environmental Quality Act (CEQA) Guidelines concerning agricultural lands. Such an amendment is intended "to provide lead agencies with an optional methodology to ensure that significant effects on the environment of agricultural land conversions are quantitatively*

<sup>4</sup> This report is located in Appendix A of this Initial Study.

<sup>5</sup> California Department of Conservation, 1997, California Agricultural Land Evaluation and Site Assessment Model Instruction Manual.

*and consistently considered in the environmental review process” (Public Resources Code Section 21095).*

*The California Agricultural LESA Model is composed of six different factors. Two Land Evaluation factors are based upon measures of soil resource quality. Four Site Assessment factors provide measures of a given project’s size, water resource availability, surrounding agricultural lands, and surrounding protected resource lands. For a given project, each of these factors is separately rated on a 100 point scale. The factors are then weighted relative to one another and combined, resulting in a single numeric score for a given project, with a maximum attainable score of 100 points. It is this project score that becomes the basis for making a determination of a project’s potential significance, based upon a range of established scoring thresholds.*

The project site received a Total LESA Score of 50.7 points. Projects with a Total LESA Score between 40 and 59 points are considered significant only if Land Evaluation Factor and Site Assessment sub scores are both greater than or equal to 20 points. For this project, only the Total Land Evaluation Score is higher than 20 points, (refer to Appendix A for a more detailed discussion). Accordingly, based upon the project site’s LESA score, the project’s conversion of agricultural land would not result in a significant impact.

The project would not conflict with a Williamson Act contract. Although the project would rezone properties that are currently zoned for agricultural uses by Santa Clara County, there are currently no agricultural activities occurring on those properties, and they have been planned for urban uses in the Morgan Hill General Plan. The site is adjacent to farmland at the APN 779-04-061 parcel, which is the site of the Morgan Hill Bible Church, the use of which would remain the same. The potential expansion of the church is not by itself anticipated to cause additional or new conflicts with agricultural operations in the area. The site is also adjacent to farmland at the APN 779-04-052 parcel, which is planned to be developed with a senior assisted living facility. The farmland, which borders the southern portion of this parcel, is also adjacent to urban residential development across Watsonville Road to the west. The future development of a senior assisted living facility, therefore, would not represent a substantial change in the urban/agricultural interface that currently exists in the site vicinity. The remainder of the project site is separated from other farmland by the SCVWD parcel (779-04-067). For these reasons, the project would not facilitate the conversion of farmland to non-agricultural uses.

#### **4.2.5 Conclusion**

Implementation of the proposed project would not result in significant impacts to agricultural or forest resources. **(Less Than Significant Impact)**



## **4.3 AIR QUALITY**

### **4.3.1 Setting**

#### **4.3.1.1 *Local and Regional Air Quality***

Air quality and the amount of a given pollutant in the atmosphere are determined by the amount of pollutant released and the atmosphere's ability to transport and dilute the pollutant. The major determination of transport and dilution are wind, atmospheric stability, terrain, and for photochemical pollutants, sunlight.

The project site is within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the regional government agency that monitors and regulates air pollution within the air basin.

Three pollutants are known at times to exceed the state and federal standards in the project area, ozone, particulates (PM<sub>10</sub>), and carbon monoxide. Both ozone and PM<sub>10</sub> are considered regional pollutants, because their concentrations are not determined by proximity to individual sources, but show a relative uniformity over a region. Carbon monoxide is considered a local pollutant, because elevated concentrations are usually only found near the source (e.g., congested intersections).

#### **4.3.1.2 *Toxic Air Contaminants***

In addition to the criteria pollutants discussed above, Toxic Air Contaminants (TACs) are another group of pollutants of concern. There are many different types of TACs, with varying degrees of toxicity. Sources of TACs include industrial processes such as petroleum refining and chrome plating operations, commercial operations such as gasoline stations and dry cleaners, and motor vehicle exhaust. Cars and trucks release at least forty different toxic air contaminants. The most important, in terms of health risk, are diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde. Public exposure to TACs can result from emissions from normal operations, as well as accidental releases. Health effects of TACs include cancer, birth defects, neurological damage and death. The project will be located adjacent to Monterey Road which has 28,700 average annual daily trips (AADT), and approximately 900 feet from Olive Avenue which has 12,000 AADT.<sup>6</sup>

#### **4.3.1.3 *Sensitive Receptors***

The Bay Area Air Quality Management District defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, schools playgrounds, child care centers, retirement homes, convalescent homes, hospitals and medical clinics. Sensitive receptors within and surrounding the project site include the Oakwood Country School, Morgan Hill Bible Church, and existing single family residences.

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<sup>6</sup> AADT based on the California Environmental Health Tracking Program. [http://www.ehib.org/traffic\\_tool.jsp](http://www.ehib.org/traffic_tool.jsp)

**4.3.2 Environmental Checklist and Discussion**

AIR QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,5
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,5
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,5
4) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
5) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

**4.3.2.1 Long-Term Air Quality Impacts**

As part of an effort to attain and maintain ambient air quality standards for ozone and PM<sub>10</sub>, BAAQMD has established thresholds of significance for air pollutants. Updated BAAQMD thresholds of significance were adopted in June 2010. These thresholds are for ozone precursor pollutants (reactive organic gases and nitrogen oxides), PM<sub>10</sub>, and PM<sub>2.5</sub>. A project that generates more than 10 tons per year or 54 pounds per day of reactive organic gases (ROG), nitrogen oxides, or PM<sub>2.5</sub>, or more than 15 tons per year or 82 pounds per day of PM<sub>10</sub> is considered to have a significant operational and/or construction-related air quality impacts, according to the BAAQMD thresholds of significance. The Bay Area has attained carbon monoxide standards.

The proposed project would allow for the construction of up to 64,600 square feet of commercial and personal services, 25,400 square feet of retail uses, 11,000 square feet of office, 160 multi-family dwelling units, 100 senior assisted living facility units, and 8,387 net new square feet of church space.

The project is estimated to generate a total of 5,438 net new vehicle trips per day. Vehicle trips generated by the project would result in air pollutant emissions affecting the entire San Francisco Bay Air Basin. Regional emissions associated with anticipated net new development on the project

site were calculated using the URBEMIS2007 emission model. Emissions resulting from future development on the project site are shown in Table 4.3-1, as well as Appendix C.

<b>Table 4.3-1: Project Emissions (lbs/day)</b>				
	<b>Reactive Organic Gases (ROG)</b>	<b>Nitrogen Oxides (NO<sub>x</sub>)</b>	<b>PM<sub>10</sub></b>	<b>PM<sub>2.5</sub></b>
<b>Existing Uses</b>				
Area Sources	0.55	0.22	0.02	0.02
Vehicles	2.06	2.59	4.37	0.84
<i>Subtotal</i>	<i>2.61</i>	<i>2.81</i>	<i>4.39</i>	<i>0.86</i>
<b>Future Development</b>				
Area Sources	23.49	4.54	0.06	0.06
Vehicles	30.77	35.33	77.59	14.76
<i>Subtotal</i>	<i>54.26</i>	<i>39.87</i>	<i>77.65</i>	<i>14.82</i>
<b>Net Total Emissions</b>	51.65	37.06	73.26	13.96
<b>BAAQMD Significance Threshold</b>	54.0	54.0	82.0	54.0

As shown in Table 4.3-1, emissions from future development on the site would not exceed the thresholds established by the BAAQMD.<sup>7</sup>

### **Objectionable Odors**

An odor source is considered significant by BAAQMD when it has five or more confirmed complaints associated with odor per year, averaged over three years. The project would generate localized emissions of diesel exhaust during equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors. However, they would be localized and are not likely to adversely affect people off site in that they would result in confirmed odor complaints. The project site is located in the vicinity of agricultural land uses which emit odors under certain meteorological weather conditions. There have been no odor complaints filed in the project area in the past three years.<sup>8</sup> Future residents of the site could occasionally experience odors from agricultural uses in the vicinity of the site, however, these odors would be infrequent and are not considered significant.

#### **4.3.2.2 Toxic Air Contaminants**

The California Air Resources Board has recently published an air quality/land use handbook. The handbook, which is advisory and not regulatory, was developed in response to recent studies that have demonstrated a link between exposure to poor air quality and respiratory illnesses, both cancer

<sup>7</sup> Emissions were calculated assuming a conservative full buildout year of 2014. It is more likely that full buildout of future development on the site would not occur until after 2014, resulting in lower calculated emissions than those shown in Table 4.3-1 due to the modernization and increased efficiency of the vehicle fleet, as assumed in the EMFAC2007 data used by the URBEMIS model.

<sup>8</sup> Based upon a BAAQMD public records search for odor complaints in the City of Morgan Hill.

and non-cancer related. The CARB handbook recommends that planning agencies strongly consider proximity to these sources when finding new locations for “sensitive” land uses such as homes, medical facilities, daycare centers, schools and playgrounds. Air pollution sources of concern include freeways, rail yards, ports, refineries, distribution centers, chrome plating facilities, dry cleaners and large gasoline service stations.

BAAQMD adopted thresholds for risks and hazards for new residential receptors that became effective in January 2011. Under these thresholds and using BAAQMD methodologies, exposure of residents to an increased cancer risk of >10.0 in a million, an increased non-cancer risk of >1.0 Hazard Index (Chronic or Acute) or ambient PM<sub>2.5</sub> increase greater than 0.3 µg/m<sup>3</sup> annual average, would be considered a significant impact.

BAAQMD recommends that projects be evaluated for community risk when they are located within 1,000 feet of stationary permitted sources of toxic air contaminants (TACs) and/or within 1,000 feet of freeways or high traffic volume roadways (10,000 average annual daily trips [AADT] or more).

The project will be located adjacent to Monterey Road which has 28,700 AADT, and approximately 900 feet from Olive Avenue which has 12,000 AADT.<sup>9</sup> Based upon AADT on the subject roadways, initial screening indicates that neither roadway would individually emit air toxins at levels that would impact sensitive receptors, based upon the BAAQMD thresholds for single source impacts.<sup>10</sup> The BAAQMD recommends that when there is more than one source of TACs above screening levels, the TAC emissions from the individual sources be added together to determine if they would have cumulative source impacts. Monterey Road and Olive Avenue would not cumulatively emit air toxins at levels that would impact sensitive receptors, based upon the BAAQMD thresholds for cumulative source impacts.

There are two stationary permitted TAC sources within 1,000 feet of the northwest-most corner of project site: US Department of Forestry & Fire Station, the property line of which is located approximately 940 feet northwest of property line of the project site, and US Technical Ceramics, the property line of which is located approximately 990 feet west of the property line of the site. Due to the presence of West Little Llagas Creek in the northwest corner of the project site, it is unlikely that any sensitive receptors would be placed closer than 60 feet to the property line at the northwest-most corner of the site as a result of the proposed project. It is therefore unlikely that sensitive receptors would be placed within 1,000 feet of the stationary permitted TAC sources listed above, and as a result, no further analysis was deemed necessary for this program-level Initial Study. At the time of future development, if residences or other sensitive receptors are proposed within 1,000 feet of the stationary permitted TAC sources, a community risk assessment would be required during the project-level environmental review.

#### **4.3.2.4      *Construction Air Quality Impacts***

Construction-related air quality impacts associated with the proposed project are the result of dust creating activities, exhaust emissions of construction equipment and the use of typical construction materials such as solvents, paints and other construction materials that tend to volatilize into the atmosphere.

<sup>9</sup> AADT based on the California Environmental Health Tracking Program. [http://www.ehib.org/traffic\\_tool.jsp](http://www.ehib.org/traffic_tool.jsp)

<sup>10</sup> Assumes development will not occur closer than 10 feet to Monterey Road.



Construction activities such as excavation and grading operations and construction vehicles driving over and wind blowing over exposed earth, generate fugitive particulate matter that will affect local and regional air quality. The effects of these dust generating activities will be increased dustfall and locally elevated levels of PM<sub>10</sub> downwind of construction activity. Construction dust has the potential for creating a nuisance at nearby properties.

Future development on the project site would implement the standard measures recommended by BAAQMD and the City of Morgan Hill for controlling construction dust, which are listed below. Implementation of these measures would avoid significant construction dust impacts.

During future construction on the site, various diesel-powered vehicles and equipment would be used on the site. Health risks from TACs are a function of both concentration and duration of exposure. Because construction diesel emissions are temporary, health risks to residents living in proximity to the site from construction emissions of diesel particulates would be less than significant.

The updated BAAQMD CEQA Guidelines include thresholds for emissions of criteria pollutants during construction. According to the Guidelines, a project that generates more than 54 pounds per day of ROG, NO<sub>x</sub>, or PM<sub>2.5</sub>, and/or 82 pounds per day of PM<sub>10</sub> is considered to have a potentially significant impact related to construction emissions. In order to estimate daily emissions related to construction, a detailed schedule of construction activities and phasing is necessary as input for the URBEMIS2007 model. Because the proposed project would allow future development on the site during a non-specific timeframe, and because the parcels on the site are owned by several different land owners with no common development plans, formulating a precise construction schedule would be impractical and speculative. Generally, daily construction emissions thresholds are exceeded only when intense construction activities are completed in a condensed timeframe, or when multiple phases of construction overlap. Although unlikely, it is possible that multiple future development projects on the site could be constructed simultaneously, leading to significant construction impacts if no mitigation is incorporated. As part of the project-level environmental review required for future development projects on the site, construction emissions would be screened, and modeled if necessary, according to the BAAQMD Guidelines, which would identify any significant impacts, should they occur. Mitigation for any significant impacts identified would be incorporated as part of the project-level analysis.

#### **4.3.2.5      *Program Mitigation and Avoidance Measures***

##### **City of Morgan Hill Standard Conditions**

In accordance with the City of Morgan Hill standard conditions of approval, prior to issuance of a grading permit a management plan detailing strategies for control of dust during construction of the project shall be submitted to the Department of Public Works. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.

##### **Bay Area Air Quality Management District Standard Measures**

The Bay Area Air Quality Management District (BAAQMD) has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices would be implemented during future construction on the site:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- 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.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- 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.
- 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 [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

#### 4.3.3 Conclusion

The proposed project would not result in significant long-term regional or local air quality impacts. **(Less Than Significant Impact)**

While possible future uses could result in temporary air quality impacts during construction, General Plan policies (and mitigation measures recommended in the BAAQMD CEQA Guidelines) would reduce impacts to a less than significant level. **(Less Than Significant Impact)**

## 4.4 BIOLOGICAL RESOURCES

The following discussion is based in part upon a Biological Evaluation completed by *Live Oak Associates, Inc.* in August 2011. A copy of this report is provided in Appendix B.

### 4.4.1 Setting

The existing biological setting on the project site is described below. The Biological Evaluation completed by *Live Oak Associates, Inc.* studied 10 of the 17 parcels on the site (APNs 779-04-001, 779-04-003, 779-04-004, 779-04-005, 779-04-010, 779-04-030, 779-04-052, 779-04-056, 779-04-072, and 779-04-074). The Oakwood Country School parcel (APN 779-04-073) was not included because the site has already received a conditional use permit to expand the school, the effects of which have been analyzed in an Initial Study/Mitigated Negative Declaration, available at the Morgan Hill Community Development Agency, and incorporated herein by reference. The proposed project would not approve any new future development on that parcel beyond what is already allowed in the conditional use permit. The parcel on which the Santa Clara Valley Water District (SCVWD) property is located (APN 779-04-067) was excluded because no future development is anticipated as a result of the project, and because the SCVWD would be the Lead Agency for any future physical changes related to the parcel. Three parcels on the Monterey-City of Morgan Hill site (APNs APN 779-04-015, 779-04-032 and 779-04-033) were excluded because the properties are entirely paved and developed, and because no access to the properties was granted. The two parcels on the Monterey-Morgan Hill Bible Church site (APNs 779-04-016 and 779-04-061) were excluded because the development proposed for the site (ie, expansion of the existing church building within a paved area) would not have the potential to affect biological resources.

#### 4.4.1.1 *Biotic Habitats*

The biotic habitats on the project site are shown on Figure 5 and described in detail below.

##### Ruderal Field

Large portions of the project site are comprised of ruderal fields which consist of fallow agricultural fields, empty lots, and marginal areas between developed land uses. These habitats may experience occasional disturbances in the forms of discing and mowing. Ruderal portions of the project site are dominated by non-native grasses and forbs and also contained a few scattered trees and shrubs. Only one reptilian species, the western fence lizard, was observed within this habitat type during the July 2011 surveys. No amphibian species were observed during these surveys. Several additional reptilian and amphibian species would reasonably be expected to occur within this habitat type of the study area including, but not limited to, the Pacific treefrog, western toad, California alligator lizard, gopher snake, and western rattlesnake, which may forage in grassland-like open habitats for invertebrates and/or small mammals.

Avian species observed in these areas include the red-tailed hawk, killdeer, Eurasian collared dove, mourning dove, American crow, western scrub-jay, black phoebe, California towhee, American robin, and house finch. These and other bird species would be expected to utilize the ruderal fields of the project site for foraging habitat, cover, and limited breeding habitat. Trees and shrubs of the site provide nesting habitat for migratory birds including the tree swallow, Say's phoebe, northern mockingbird, rock dove, Anna's hummingbird, among others. The larger trees provide nesting



BIOTIC HABITATS

FIGURE 5



habitat for numerous birds including raptors such as the red-tailed hawk, American kestrel, and red-shouldered hawk.

Mammals observed in this habitat of the site included the California ground squirrel, black-tailed jackrabbit, and feral cat. Other species likely to occur include the Virginia opossum, Botta's pocket gopher, California vole, brush rabbit, ornate shrew, and striped skunk. Predators that may be attracted to small mammals and invertebrates of the ruderal fields include the raccoon, coyote, and non-native red fox. Some of these species, as well as other species not listed, would be expected to travel to these habitats by way of West Little Llagas Creek corridor discussed below in the course of migratory or foraging movements. The duration of site occurrence would be limited for most of these species by habitat unsuitability.

### Developed/Landscaped

Several portions of the project site are comprised of developed and landscaped areas, including the mushroom production facility, a few residential buildings, a building supporting bail-bond and hardware businesses, and a masonry company.

Landscaped vegetation observed within these portions of the project site was characterized as a combination of typical landscaping elements and rural habitat elements supporting species identical to those observed in the ruderal field habitats. Developed lands provide limited habitat for locally occurring wildlife species; however, the rural nature of the developed lands within the study area provide some level of continuity between more natural habitats. Ongoing disturbances occurring on developed lands would reduce the value of the foraging habitat for wildlife and would preclude some of the species that would occur on the more natural areas in the vicinity of these developed areas from utilizing these areas for breeding habitat.

Amphibian and reptilian species that may utilize the developed lands incidentally for forage and cover include amphibians such as the California slender salamander, Pacific tree frog, western toad, bull frog, western fence lizard, California alligator lizard and gopher snake. Low-quality breeding habitat for amphibians may be present within retention basins occurring within the mushroom production facility depending upon annual conditions and water quality of the pump-fed basins. Both basins were dry at the time of the July 2011 surveys.

Avian species that may occur within the developed areas of this habitat are not significantly differentiated from those species which occur in the ruderal field habitats of the site, as indicated by the species observed within each of these habitat types during the July 2011 surveys. Foraging habitat is more limited for many species of birds relative to more natural areas. Some urban-adapted bird species, such as the mourning dove, cliff swallow, black phoebe, European starling, house finch, and house sparrow, may occasionally nest on the development structures of the site, and suitable nesting habitat is present in the trees and shrubs of the site for numerous other species including the red-tailed hawk, American kestrel, American crow, American robin, and Say's phoebe.

A few mammals could be expected to occur on a regular basis within the developed areas of the study area. These include residential pets as well as the California ground squirrel, which was observed on several of the parcels during the July 2011 surveys, Botta's pocket gopher, California mouse, brush rabbit, black-tailed jackrabbit, striped skunk, northern raccoon, eastern fox squirrels, and Virginia opossum. These species would predominantly be expected to forage in the developed

areas of the site; however, the California ground squirrel, Botta's pocket gopher, California mouse, and eastern fox squirrel possibly maintain breeding populations within these areas.

### Riparian Woodland and Seasonal Drainage

An approximately 200-foot reach of the seasonal drainage, West Little Llagas Creek, which flows west to east across the northern corner of the site, provides for a fairly dense riparian habitat for local wildlife. The creek enters the site from under Watsonville Road through a culvert and flows off of the site through another culvert beneath Monterey Road. Due to its proximity to developed areas, the creek has been somewhat degraded from unnatural siltation, non-native species establishment, litter buildup, and lack of native species occurrence or establishment (e.g. seed flow) along and within the creek. At the time of the July 2011 surveys, the creek was not flowing, though shallow stagnant puddled areas were present.

The bed of the creek was sparsely vegetated at the time of the July 2011 surveys, apparently due to heavy siltation, scouring, shading from the extensive tree canopy, and/or inundation. The banks of the creek, however, provided for a thick coast live oak riparian woodland. Trees associated with the riparian canopy included coast live oak, valley oak, walnut, and olive. Understory vegetation along the bed and banks included sparse unidentified grasses, as well as Harding grass, Italian thistle, teasle, English plantain, tall cyperus, and curly dock.

The seasonal drainage of West Little Llagas Creek provides movement and foraging habitat for several species of fish including the Sacramento sucker, sacramento pikeminnow, and mosquitofish. This drainage also provides a seasonal source of drinking water and cover for species occurring in the surrounding habitats and may also provide breeding habitat for amphibians and reptiles such as pacific treefrogs, western toads, and garter snakes; however, the reach of the creek occurring on the study area does not appear to provide pooling usually required for amphibian breeding habitat. A western fence lizard was observed on the bank of the creek during the July 2011 surveys.

Numerous birds would occur within this habitat, including those observed in other habitats of the study area. An unoccupied stick nest was observed in a coast live oak on the south side of the corridor, and individual black phoebes and chestnut-backed chickadees were observed in the riparian woodland habitat. While the riparian habitat is quite dense, it would be slightly less desirable for native species relative to riparian habitat occurring further from urban development, due to the presence of the busy roadways of Monterey and Watsonville Roads and impacts from upstream inputs.

Prints of mammalian species were observed in the creek bed including those of the raccoon, cat, and dog. Other mammalian species may utilize the riparian corridor and channel of the site for forage and migration activities such as coyote, raccoons, and black-tailed deer. The mountain lion may also traverse through this portion of the study area from time to time.

### Potential Wetland Swale

A potential wetland swale feature was observed on APNs 779-04-072 and 779-04-074. The feature partially circumvents an area of raised soils to the southeast of the mushroom production facility, where it was identified by its dense hydrophytic vegetation. The feature appears to flow to the southeast through a culvert and into a wider area of more sparse hydrophytic and ruderal vegetation

before flowing toward Monterey Road where it crosses through another culvert and drains toward an offsite stretch of West Little Llagas Creek. At the time of the July 2011 surveys this feature was dry. Therefore it is not clear to what extent this feature collects water through the year, or its exact size and boundary. In general, though, this feature is fairly degraded, apparently subject to soil management related to agricultural uses and/or vegetation management.

Wildlife species expected to occur in the surrounding habitats could be expected to occasionally forage and/or pass through this feature from time to time. During periods of high precipitation, when the feature is likely to contain some shallow standing water, amphibian species that could occur in the West Little Llagas Creek and retention basins, such as the Pacific treefrog, western toad, and bull frog, may utilize this feature more extensively.

#### **4.4.1.2 *Wildlife Movement Corridors***

Many terrestrial animals need more than one biotic habitat in order to perform all of their biological activities. With increasing encroachment of humans on wildlife habitats, it has become important to establish and maintain linkages, or movement corridors, for animals to be able to access locations containing different biotic resources that are essential to maintaining their life cycles. Terrestrial animals use ridges, canyons, riparian areas, and open spaces to travel between their required habitats.

Lands surrounding the site have been moderately developed with neighborhoods, roads, and commercial, agricultural, and industrial land uses, which constrain, but do not completely impede, the movement of wildlife between the site and more open lands. As such, the slightly degraded creek onsite, West Little Llagas Creek, which passes through the northernmost corner of the site, likely serves as a movement corridor for local wildlife species that persist in nearby lands. However, the creek is expected to facilitate regional movements of only some wildlife species, as animals would have to travel through miles of poor habitat (i.e., urban development) before reaching the site and surrounding areas, which are themselves of relatively low habitat value.

#### **4.4.1.2 *Special-Status Plant and Wildlife Species***

Species of special status include: plants and animals listed, proposed for listing, or candidates for listing as “threatened” or “endangered” under the Federal Endangered Species Act (FESA) or the California Endangered Species Act (CESA); animals listed as “fully protected” under the California Fish and Game Code, animals designated as “Species of Special Concern” by the California Department of Fish and Game (CDFG); and plants listed as rare or endangered in the California Native Plant Society’s (CNPS) Inventory of Rare and Endangered Vascular Plants of California (2001).

A number of special status plants and animals occur in the site’s vicinity. A full list of these species and their potential to occur on the site are listed in Appendix B. This information was used to evaluate the potential for special status plant and animal species that occur on the site.

Only one special status animal species, the white-tailed kite, is considered likely to occur on the project site. The site supports suitable foraging and nesting habitat in the form of open grasslands and large trees. No special status plant species are considered as possible or likely to occur on the site.

Other special status animal species, including the pallid bat, golden eagle, and San Francisco dusky-footed woodrat, are considered as possibly occurring on the site. Burrowing owls are considered unlikely to occur on the site, although potentially suitable habitat was observed on the site.

#### **4.4.1.4 Regulatory Overview**

##### **Migratory Birds**

The Federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The trustee agency that addresses issues related to the MBTA is the US Fish and Wildlife Service (USFWS). Species of birds protected under the MBTA include all native birds and certain game birds. The MBTA protects whole birds, parts of birds, and bird eggs and nests and prohibits the possession of all nests of protected bird species whether they are active or inactive. An active nest is defined as having eggs or young. Birds which are protected by the MBTA are likely present on the project site.

##### **City of Morgan Hill Tree Removal Controls**

The City of Morgan Hill defines a tree as “any live woody plant rising above the ground with a single stem or trunk of a circumference of 40 inches or more for non-indigenous species, and eighteen inches or more for indigenous species measured at four and on-half feet vertically above the ground or immediately below the lowest branch, whichever is lower...” The Morgan Hill tree ordinance specifies that orchards are exempt from the definition of a tree for the purpose of the City ordinance. Trees which are indigenous to the City of Morgan Hill include all types of oak trees.

Prior to the removal of any tree protected under the City of Morgan Hill Tree Removal Controls, a tree removal permit would be required from the Community Development Director which would include a description of the tree replacement program and identify any conditions imposed by the City.

According to the Biological Evaluation completed for the site, coast live oak, Eucalyptus, California black walnut, and several planted redwood trees are present in the ruderal fields on the site. Eucalyptus, crape myrtle, Monterey pine, coast redwood, and various species of crop trees including citrus, olive, and plum trees are present in the developed/landscaped areas of the site. Trees associated with the riparian canopy in the vicinity of West Little Llagas Creek include coast live oak, valley oak, walnut, and olive.

##### **California Fish and Game Code**

The California Fish and Game Code includes regulations governing the use of or impacts to many of the state’s fish, wildlife, and sensitive habitats. The California Department of Fish and Game (CDFG) exerts jurisdiction over the bed and banks of rivers, lakes, and streams according to provisions of Section 1601 through 1603 of the Fish and Game Code. The Fish and Game Code requires a Streambed Alteration Agreement for the fill or removal of material within the bed and banks of a watercourse or water body and for the removal of riparian vegetation. Future development on the site will be required to conform to the requirements of Fish and Game Code and replacement habitat will be required where there are impacts to riparian vegetation.



**4.4.1.5 Draft Habitat Conservation Plan**

Currently there is no adopted Habitat Conservation Plan that covers the study area. Six local partners (the County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, and the Cities of San Jose, Gilroy and Morgan Hill) and three wildlife agencies (the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service) are in the process of designing a multi-species habitat conservation plan. The study area of the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) primarily covers southern Santa Clara County, which includes the City of San Jose with the exception of the bayland areas. The HCP/NCCP will address listed species and species that are likely to become listed during the plan's 50-year permit term. The covered species include, but are not limited to, western burrowing owl, California tiger salamander, and California red-legged frog. The (HCP/NCCP) Planning Agreement requires that the agencies comment on reportable interim projects and recommend mitigation measures or project alternatives that would help achieve the preliminary conservation objectives and not preclude important conservation planning options or connectivity between areas of high habitat value.

Several species and habitats potentially impacted by this project will be covered by the HCP/NCCP including the habitat of riparian corridors, and species including the golden eagle, western burrowing owl, and tricolored blackbird. If this HCP were approved prior to site development, the project would be subject to the provisions addressed in this HCP. This is likely to include measures included in the current draft HCP/NCCP such as a proposed 100-foot development-free setback from riparian corridor habitats.

**4.4.2 Environmental Checklist and Discussion**

BIOLOGICAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,6
2) 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,6

BIOLOGICAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
3) 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,6
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,6
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,6
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2

#### 4.4.2.1 *Impacts to Habitats*

##### **Loss of Habitat for Special Status Plants**

Forty-one special status plant species are known to occur in the general project vicinity. Due to the fact that all of these species are considered to be absent or unlikely to occur on the site, future site development would have no effect on regional populations of these species since the site provides no habitat for special status plants.

##### **Loss of Habitat for Special Status Animals**

Twenty-three special status animal species occur, or once occurred, regionally. With the exception of the white-tailed kite, golden eagle, pallid bat, and San Francisco dusky-footed woodrat, all of these species would be absent from or unlikely to occur on the site due to unsuitable habitat conditions and surrounding urban. Eventual project build-out would have no effect on these species because there is little or no likelihood that they are present.

The golden eagle would only be expected to occasionally forage over the study area and/or pass through the study area en route to higher quality habitats. Similarly, the steelhead, a migrating trout, may only be expected to pass through the onsite reach of West Little Llagas Creek during periods of heavy flows. Breeding and rearing habitat in the forms of gravel lined riffles and larger pools were lacking for the steelhead. The white-tailed kite, pallid bat, and San Francisco dusky-footed woodrat potentially occur more frequently as transients or residents to various portions of the study area.

The white-tailed kite and other raptors could potentially utilize the larger trees of the site for breeding habitat, especially considering that agricultural fields of the site and site vicinity provide suitable foraging area for these and other protected migratory bird species. The pallid bat may forage over various portions of the study area. Buildings of the study area provide potential roosting and/or breeding colony habitat for the pallid bat, specifically including several structures of the mushroom production facility (APN 779-04-056) and a barn located on the residential housing area of APN 779-04-030. The San Francisco dusky-footed woodrat would be restricted to utilizing the riparian woodland habitat of West Little Llagas Creek for foraging habitat and/or nesting habitat.

Due to existing policies, such as the Morgan Hill City Council Policy 05-02 discussed below, development within the project site would not impact West Little Llagas Creek and the associated riparian woodland habitat, and therefore would not result in the loss of potential foraging and nesting habitat for the San Francisco dusky-footed woodrat. Impacts to habitat for the white-tailed kite and pallid bat would not be considered significant, as project build-out would, at most, result in a minimal reduction of generally marginal quality foraging and/or breeding habitat available regionally for these species, and there is suitable habitat in the project vicinity that would be available to these species both during and following future site development.

Therefore, the loss of habitat for all species listed in the Biological Evaluation would be considered less than significant.

### **Disturbance of Jurisdictional Waters or Riparian Habitats**

Future development on the site could result in permanent and temporary disturbances to onsite Waters of the United States and related riparian woodland habitat. As discussed above, impacts to the riparian habitat associated with top of bank of West Little Llagas Creek would be prevented by existing policies in the General Plan and Municipal Code. At this time, a formal wetland delineation of the study area has not been conducted. Portions of the project site (APNs 779-04-001, 779-04-056, 779-04-072, and 779-04-074) contain features that appear to be inundated at certain times through the year, including a section of West Little Llagas Creek, a wetland swale, a roadside ditch, two small condensation basins, and a drainage feature that collects condensation water along the back of one of the existing mushroom production buildings. These features are potential waters of the U.S. and waters of the State; the placement of fill within these features would constitute a significant impact.

**Impact BIO-1:** Future development on the site could result in significant impacts to jurisdictional waters. **(Significant Impact)**

## Tree Removal

Tree removal is likely to occur as a result of future development on the project site, although it is currently unknown which trees occurring on the site are subject to future removal. Compliance with the requirements of the City of Morgan Hill Tree Removal Controls, which includes replacement of trees removed with plantings of new trees as deemed acceptable by the City of Morgan Hill Community Development Director, would ensure the project would not conflict with the City's Tree Ordinance.

Significant trees on site that would be preserved as part of a future development project could become damaged during construction, which would be considered a significant impact.

**Impact BIO-2:** Future construction activities at the project site could damage existing trees proposed for preservation. **(Significant Impact)**

## Wildlife Movement Corridors

Although West Little Llagas Creek occurs within the northern corner of the study area and facilitates the movement of wildlife through the region, the project site itself provides minimal dispersal habitat for native wildlife and does not function as an important movement corridor for native wildlife. Site development is not expected to have a significant effect on home range and dispersal movements of native wildlife that may occur in the region. Therefore, the project will result in a less than significant impact on the movements of native wildlife.

### 4.4.2.2 *Impacts to Special Status Plant and Wildlife Species*

#### **Tree-Nesting Raptors and Other Migratory Birds**

Although no active nests were observed on site during the July 2011 surveys, an inactive nest was observed within the riparian woodland habitat. Large trees throughout the parcels of the study area provide potential nesting habitat for tree-nesting raptors, including white-tailed kites. These and smaller trees and shrubs of the study area also provide potential nesting habitat for passerines and other migratory birds. Riparian woodland habitat provides potential nesting habitat for migratory birds. If any of these species were to nest on or adjacent to the site prior to or during development-related construction activities, disturbances from these activities could result in the abandonment of active nests or direct mortality to these birds. Construction activities that adversely affect the nesting success of raptors or result in mortality of individual birds constitute a violation of state and federal laws and would be considered a significant impact.

**Impact BIO-3:** Construction activities associated with future development on the site could result in the abandonment of active nests or direct mortality of special status bird species. **(Significant Impact)**

#### **Burrowing Owls**

Protocol-level presence/absence surveys were conducted for burrowing owls in July 2011, at which time potentially suitable habitat for the owls was observed on all parcels of the study area except for APNs 779-04-001, 779-04-030, and 779-04-010, in the form of mammal burrows. No individuals or

evidence of burrowing owls in the form of feathers, white-wash, regurgitation pellets, or prey remains were observed. Therefore, burrowing owls are considered absent from the site. Nonetheless, burrowing owls are a volant species that could potentially overwinter or otherwise occupy the site in the future prior to grading. Therefore, if a burrowing owl were to occur on the site in the future prior to development, project-related activities could result in direct mortality to these birds. Construction activities that result in mortality of individual owls constitute a violation of state and federal laws and would be considered a significant impact.

**Impact BIO-4:** Construction activities associated with future development on the site could result in the direct mortality of burrowing owls. **(Significant Impact)**

#### **Pallid Bat and Other Bat Species**

Although bats were not directly observed within the study area during the reconnaissance July 2011 surveys, potential colony habitat is present within the buildings of the study area, specifically including several structures of the mushroom production facility (APN 779-04-056) and a barn located on the residential housing area of APN 779-04-030. It is not known if bats currently inhabit these structures of the study area. Future development that results in the removal of structures within these parcels may result in the loss of a roosting or maternity colony of bats. The loss of a colony for any bat species, regardless of the species' listing status, would constitute a significant impact.

**Impact BIO-5:** Future development on the site could result in the loss of a bat colony. **(Significant Impact)**

#### **San Francisco Dusky-Footed Woodrat**

No nests characteristic of the San Francisco dusky-footed woodrat were observed within the potentially suitable riparian woodland habitat of the site, located within the northern corner of the site along West Little Llagas Creek. However, according to the biological studies conducted by WRA within this reach of the creek during 2010, during which time nests of the San Francisco dusky-footed woodrat were observed, the project site provides potentially suitable habitat for this species. Development related disturbances, including impacts to the riparian habitat of the study area, could result in harm to individual San Francisco dusky-footed woodrats, which would be considered a significant impact.

**Impact BIO-6:** Future development on the site could result in significant impacts to the San Francisco dusky-footed woodrat. **(Significant Impact)**

#### **4.2.2.3 Program Mitigation and Avoidance Measures**

##### **City of Morgan Hill General Plan**

Various policies in the City's General Plan were adopted for the purpose of avoiding or mitigating impacts to biological resources resulting from planned development within the City. All future development is subject to General Plan policies, including the following, which would reduce or avoid impacts to biological resources:



- *Plants and Wildlife Policy 6a* – Preserve all fish and wildlife habitats in their natural state whenever possible. Consider development impacts upon wildlife and utilize actions to mitigate those environmental impacts.
- *Plants and Wildlife Policy 6b* – Minimize impacts upon wildlife when considering extending annexations, urban service areas, and other governmental actions that permit urban development of previously undeveloped property.
- *Plants and Wildlife Policy 6c* - Preserve outstanding natural features, such as the skyline of a prominent hill, rock outcroppings, and native and/or historically significant trees.
- *Plants and Wildlife Policy 6e* - Identify and protect wildlife, rare and endangered plants and animals and heritage resources from loss and destruction.
- *Plants and Wildlife Policy 6g* - Encourage use of native plants, especially drought-resistant species in landscaping to the extent possible.
- *Water Quality Policy 6f* – Require the protection and/or replacement of essential habitat for rare, threatened, or endangered species and species of special concern as required by state and federal law.
- *Water Quality Policy 6g* – Encourage the protection, restoration, and enhancement of remaining native grasslands, oak woodlands, marshlands, and riparian habitat.
- *Water Quality Policy 6h* – Preserve and protect mature, healthy trees whenever feasible, particularly native trees and other trees which are of significant size or of significant aesthetic value to immediate vicinity or to the community as a whole.

### **City of Morgan Hill Burrowing Owl Habitat Mitigation Plan**

In conformance with the City’s Burrowing Owl Habitat Mitigation Plan, future development on the project site will be required to implement the following measures to avoid direct impacts to burrowing owls and to offset impacts to non-native grassland habitat. Implementation of this standard measure would avoid or reduce significant impacts to burrowing owls and their habitat.

- Complete pre-construction surveys to determine if burrowing owls are present within the footprint of the proposed grading area, no more than 30 days prior to initiation of any construction-related activities.
- Should burrowing owls be found on the site during breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related activities shall occur outside the exclusion area until the young have fledged.
- If preconstruction surveys are completed during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Game once mitigation has been provided.

- A final report on burrowing owls, including any protection measures, shall be submitted to the Director of Community Development prior to grading.

### **City of Morgan Hill Municipal Code**

- Prior to the removal of any tree protected under the City of Morgan Hill Tree Removal Controls, a tree removal permit would be required from the Community Development Director which would include a description of the tree replacement program and identify any conditions imposed by the City. Tree removal may also occur without a permit if the removal will take place in accordance with an approved landscape plan. [Morgan Hill Municipal Code 12.32.030, 12.32.040, 12.32.060]
- Native trees shall be planted to replace native trees removed unless practical reasons preclude this option, as determined by the Community Development Director. [Morgan Hill Municipal Code 12.32.080(A)]
- No building shall be constructed within 50 feet of a perennial or intermittent stream [Morgan Hill Municipal Code 18.12.080(E)]. The draft Santa Clara Habitat Conservation Plan (HCP) proposes to modify this standard to a 35-foot setback from the top of the bank or outer edge of riparian vegetation. If this provision is adopted, the Municipal Code will likely be amended to be consistent with the HCP.

### **Morgan Hill City Council Policy 05-02**

In July 2005, the Morgan Hill City Council adopted an interim City Council policy that applies to new development adjacent to streams and waterways:

- *City Council Policy 05-02* - New development adjacent to streams and waterways shall be designed to preserve and integrate the waterways and associated habitats. New development should respect the water resource as an asset to the development, and shall not wall off the stream or waterway. New development shall incorporate open space buffers adjacent to waterways, in order to protect the stream and the existing/potential natural resources and habitats contained therein. Trails, pedestrian pathways and/or bikeways should be included within the open space buffer, either as reflected in the City's Park and Bikeways Master Plan or when reasonable and appropriate. Conditions of approval may be imposed to require restoration of riparian habitat, as feasible.

This policy shall apply to land adjacent to streams and waterways which have value as natural and/or recreational resources, including Llagas, West Little Llagas, Edmundson, Fisher, Tennant, Corralitos and Coyote Creeks, as well as the Madrone and Butterfield Channels.

### **Federal and State Laws and Regulations Protecting Wetlands and Creeks**

#### Section 401 and 404 of the Federal Clean Water Act

At the federal level, the Clean Water Act (33 U.S.C. 1344) is the primary law regulating impacts to wetlands and waters. The Clean Water Act regulates the discharge of dredged or fill material into

waters of the United States, including wetlands. Waters of the United States include navigable waters, interstate waters, territorial seas, and other waters that may be used in the interstate or foreign commerce. The Section 404 permit program is run by the U.S. Army Corps of Engineers (ACOE) with oversight from the Environmental Protection Agency (EPA). Future impacts to regulated wetlands or waters due to construction will require conformance with an ACOE permit and mitigation requirements to offset impacts. Prior to any construction activities, including filling or excavation within waters of the United States, a Section 404 permit will be obtained from the ACOE and a Water Quality Certification would be obtained from the Regional Water Quality Control Board (RWQCB). The RWQCBs were established under the Porter-Cologne Water Quality Act to oversee water quality in the State of California and the RWQCB issues water quality certification in compliance with Section 401 of the Clean Water Act where impacts to wetlands are proposed. Portions of the project site (APNs 779-04-001, 779-04-056, 779-04-072, and 779-04-074) contain features that appear to be inundated at certain times through the year, including a section of West Little Llagas Creek, a wetland swale, a roadside ditch, two small condensation basins, and a drainage feature that collects condensation water along the back of one of the existing mushroom production buildings. These features are potential waters of the United States.

### **Federal and State Laws and Regulations Protecting Migratory and Nesting Birds**

#### Federal Migratory Bird Treaty Act

The federal Migratory Bird Treaty (MBTA; 16 U.S.C., Section 703, Supplement I, 1989) prohibits the killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The trustee agency that addresses issues related to the MBTA is the U.S. Fish and Wildlife Service (USFWS). Migratory birds protected under this law include all native birds and certain game birds (e.g., turkeys and pheasants). This act encompasses whole birds, parts of birds, and bird nests and eggs. The MBTA protects active nests (i.e., contains eggs or fledglings) from destruction and all nests of species protected by the MBTA. All native bird species occurring in the City of Morgan Hill are protected by the MBTA.

#### California Fish and Game Code

All native bird species that occur on the project site are protected by the Fish and Game Code. The California Fish and Game Code protects native birds, including their nests and eggs, from all forms of take, which includes disturbance that causes nest abandonment and/or loss of the reproductive effort. Raptors (i.e., eagles, hawks, falcons, and owls) and their nests are specifically protected in California under Fish and Game Code section 3503.5. Section 3503.5 states that it is “unlawful to take, possess, or destroy any birds in the order of Falconiformes or Stringiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided in this code or regulation adopted pursuant thereto.” Future development on the project site would be required to include measures to avoid impacts to nesting birds.

#### 4.4.4

### Mitigation and Avoidance Measures to be Considered at the Time of Future Development

#### **Jurisdictional Waters**

**MM BIO-1:** Prior to future development on APNs 779-04-001, 779-04-056, 779-04-072, and 779-04-074, a formal wetland delineation shall be completed and submitted to the US Army Corps of Engineers (USACE) for verification. After jurisdiction habitats have been identified, the project proponents shall implement avoidance, minimization, and/or compensation measures to reduce impacts to any jurisdictional waters and the associated riparian woodland habitat to a less than significant level.

If feasible, all waters of the U.S. and State and riparian habitat areas shall be avoided by designing the project so that it avoids the placement of fill within potential jurisdictional waters and impacts to riparian habitat. A development-free riparian setback shall also be observed as riparian communities require such a buffer to maintain the ecological value that they generally provide to wildlife.

If full avoidance is not feasible, actions shall be taken to minimize impacts to all waters of the U.S. and State and the riparian corridor during future site development. Measures taken during construction activities shall include placing construction fencing and erosion control mechanisms, if needed, around wetland features and the riparian area(s) to be preserved to ensure that construction activities do not inadvertently impact these areas.

Additionally, as part of project build-out, all proposed lighting shall be designed to avoid light and glare impacts to the riparian corridor. Light sources shall not be visible from riparian areas and shall not illuminate riparian areas.

Compensation measures would be required to offset temporary and permanent impacts to all waters of the U.S. and State and the riparian corridor of West Little Llagas Creek as a result of future site development that cannot avoid such impacts. These measures would either result in the creation of new habitat, either onsite or offsite, as replacement for habitat lost or enhance the quality of existing habitat. Compensation measures shall include a replacement-to-loss ratio of between 1:1 and 3:1 for permanent acreage impacts (acres created for each acre impacted). This would include creation of on-site or offsite wetland and/or riparian habitat and reseeded/replanting of vegetation in temporarily disturbed areas.

The applicant shall also comply with all state and federal regulations related to impacts to these habitats. This may require obtaining a Section 404 Clean Water Act permit from the USACE, Section 401 Water Quality Certification from the RWQCB, and Section 1602 Lake or Stream Alteration Agreement from the CDFG prior to initiating any construction, if deemed necessary, and fulfilling the mitigation requirements of these permits.

### **Trees Preserved On-site During Construction**

**MM BIO-2:** The following measures shall be implemented on-site during construction activities to protect ordinance-sized trees proposed for preservation:

- Locate structures, grade changes, etc. as far as feasible from the 'dripline' area of the tree.
- Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5 times the 'dripline' area of trees. Where root damage cannot be avoided, roots encountered (over one inch diameter) should be exposed approximately 12 inches beyond the area to be disturbed (towards tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or power saw, and immediately back-filled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.
- Construct a temporary fence as far from the tree stem (trunk) as possible, completely surrounding the tree, and six- to eight- feet in height. Post no parking or storage signs around the outside of the fencing. Do not attach posting to the mainstem of the tree.
- Do not allow vehicles, equipment, pedestrian traffic; building materials or debris storage; or disposal of toxic or other materials inside of the fenced off area.
- Avoid pruning immediately before, during, or immediately after construction impact. Perform only that pruning which is unavoidable due to conflicts with proposed development. Aesthetic pruning should not be performed for at least one- to two- years following completion of construction.
- Trees that will be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities, with not more than 6 pounds of actual nitrogen per 1,000 square feet of accessible 'drip line' area or beyond.
- Mulch 'rooting' area with an acidic organic compost or mulch.
- Arrange for periodic (Biannual/Quarterly) inspection of tree conditions, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.

### **Tree-Nesting Raptors**

**MM BIO-3:** Trees planned for removal from the study area should be removed during the non-breeding season (September 1 through January 31). If it is not possible to avoid tree removal or other disturbances during the breeding season (February 1 through August 31), a qualified biologist should conduct a pre-construction survey for nesting migratory birds, including for white-tailed kites, in all trees within the planned development footprint and within 250 feet of the footprint prior to the onset of



ground disturbance, if such disturbance will occur during the breeding season. Preconstruction surveys for nesting migratory birds should be conducted no more than 14 days prior to the onset of ground disturbance during the early part of the nesting season (February 1 through May 15), and no more than 30 days prior to the onset of ground disturbance during the later portion of the nesting season (May 16 – August 31). If nesting migratory birds, including for white-tailed kites, are detected during the survey, a suitable construction-free buffer should be established around all active nests. The precise dimension of the buffer (up to 250 ft. for most raptors) would be determined at that time and may vary depending on location and species. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. Pre-construction surveys during the non-breeding season are not necessary for these species, as they are expected to abandon their roosts during construction. Implementation of the above measures would mitigate impacts to tree-nesting raptors, including white-tailed kites, and other migratory birds to a less than significant level.

### **Burrowing Owls**

**MM BIO-4:** To avoid potential impacts to individual burrowing owls (should they occur onsite at some time in the future before the beginning of construction), a qualified biologist shall conduct pre-construction surveys for owls within 30 days of the onset of ground disturbance. These surveys would be conducted in a manner consistent with accepted burrowing owl survey protocols. If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (September 1 through January 31), then an eviction effort (i.e., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be necessary to ensure that the owls are not harmed or injured during construction. Should burrowing owls be detected on the site during future breeding seasons (February 1 through August 31), a construction-free buffer of at least 250 feet should be established around all active owl nests. The buffer areas shall be delineated with some form of fencing or visual tape, and construction equipment and workers should not enter the enclosed setback areas. Buffers shall remain in place for the duration of the breeding season or until young are independent. After the breeding season, an eviction process for any remaining owls may take place as described above. By implementing the above mitigation, impacts to burrowing owls would be reduced to a less than significant level.

### **Bats**

**MM BIO-5:** A detailed bat survey shall be conducted to determine if bats are roosting or breeding in the buildings of the parcels listed above prior to demolition. A qualified bat specialist will look for individuals, guano, staining, and vocalization by direct observation and potentially waiting for nighttime emergence. The survey shall be conducted during the time of year when bats are active, between April 1 and September 15. If demolition is planned within this timeframe, the survey shall be conducted within 30 days of demolition. An initial survey could be conducted to provide early warning if bats are present, but a follow-up survey will be necessary

within 30 days. If demolition is planned outside of this timeframe (September 16 through March 31), the survey shall be conducted in September prior to demolition. If no bats are observed to be roosting or breeding in these structures, then no further action would be required, and demolition can proceed.

If a non-breeding bat colony is found in the structures to be demolished, the individuals shall be humanely evicted via the partial dismantlement of the buildings prior to demolition under the direction of a qualified bat specialist to ensure that no harm or “take” would occur to any bats as a result of demolition activities. If a maternity colony is detected in the buildings, then a construction-free buffer will be established around the structure and remain in place until it has been determined by a qualified bat specialist that the nursery is no longer active. Demolition should preferably be done between March 1 and April 15 or August 15 and October 15 to avoid interfering with an active nursery.

By implementing the above mitigation, impacts to bats would be reduced to a less than significant level.

### **San Francisco Dusky-Footed Woodrat**

**MM BIO-6:** A qualified biologist shall conduct a pre-construction survey for the San Francisco dusky-footed woodrat within 30 days of ground disturbance. As this species usually breeds during the spring and summer months, and since young are altricial (i.e., born in an undeveloped state and requiring care and feeding by the parents during early development), the nests shall be manually deconstructed when it is determined by a qualified biologist that the young can move effectively independent of their parents’ care (generally from October through January). If woodrats are observed within the nest individual woodrats shall be relocated to suitable habitat in consultation with the CDFG. If young are present, a suitable construction-free buffer shall be established around the active nest until such time when the young can move on their own. By implementing the above mitigation, impacts to San Francisco dusky-footed woodrats would be reduced to a less than significant level.

#### **4.4.5 Conclusion**

Implementation of the identified General Plan policies and other program mitigation and avoidance measures would avoid substantial impacts to biological resources. **(Less Than Significant Impact with Program Mitigation)**

## 4.5 CULTURAL RESOURCES

The following discussion is based upon the City of Morgan Hill's Archaeological Sensitivity Map and Cultural Resources Supplement for the City of Morgan Hill's General Plan prepared by *Basin Research Associates, Inc.* The Cultural Resource Study and Archaeological Sensitivity Map are on file with the City of Morgan Hill Community Development Agency.

### 4.5.1 Setting

#### 4.5.1.1 *Archaeological Resources*

Native American occupation and use of the resources in the Morgan Hill area extended over a period of 5,000-7,000 years and maybe longer. The aboriginal inhabitants of the Santa Clara Valley belonged to a group known as the Ohlone (or Costanoans) who occupied the central California coast as far east as the Diablo Range.

The majority of prehistoric archaeological sites in the Morgan Hill area have been found along fresh water sources (such as creeks and springs), in valley areas near water, at the base of the hills and along a major north/south trail. Potential historic era archaeological sites also follow this pattern and often directly occupy prehistoric sites or are located at their periphery. Historic sites also are often sited along trails, roads, railroad tracks, and along urban and regional street grids.

According to the City of Morgan Hill Archaeological Sensitivity Map, the northern portion of the project site along Monterey Road is located in an area of prehistoric or historic archaeological sensitivity due to its proximity to West Little Llagas Creek.<sup>11</sup>

#### 4.5.1.2 *Historic Resources*

A survey to identify potential historical resources in Morgan Hill was completed in 2007. None of the identified resources is located on or adjacent to the project site. As described in the Phase I Environmental Site Assessment completed for the site (Appendix D), structures on APNs 779-04-056, -005, -030, and -015 were present in a 1965 historic aerial photograph (refer to Photos 1,3,4 and 5). These structures were not present in an aerial photograph from 1956. Therefore, it is likely that some structures on the site are over 50 years of age, or will be at the time of future development.

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<sup>11</sup> Basin Research Associates, Inc. Cultural Resources Supplement (Archaeological Resources Morgan Hill General Plan). April 2000.

**4.5.2 Environmental Checklist and Discussion**

CULTURAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
4) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2

**4.5.2.1 Impacts to Archaeological Resources**

The northern portion of the project site along Monterey Road is in an area of archaeological sensitivity. In the event the future development on the site involves ground disturbing activities, implementation of the standard measures listed below would ensure that future development on the site would not result in significant impacts to archaeological resources.

Standard Measures

In accordance with the City of Morgan Hill Municipal Code Chapter 18.75, proposals for the development of a site identified as archaeologically sensitive by the City’s adopted archaeological sensitivity map shall be subject to the following review process and standard conditions of project approval:

- The City will consult with the Northwest Information Center for information about whether proposed development is located within or adjacent to a known archaeological site, and if it is determined that it is so located, then a historical alteration permit is required for the project, and subsequent CEQA review of the project shall consider potentially significant impacts on archaeological resources and identify appropriate mitigation measures to be imposed as conditions of approval in addition to the standard conditions identified below.
- If the project is not located within or adjacent to a known archaeological site, but is located within the mapped archaeologically sensitive area as adopted by the City, then the project applicant has the option to either have an archaeological survey be completed for the site to determine what, if any, conditions of approval will be required as mitigation measures; or agree to comply with the following standard conditions of approval, which shall be conclusively deemed to reduce potentially significant impacts on archaeological resources to

a less than significant level (no archaeological resources report is required as part of any CEQA review of the project as long as the applicant accepts these conditions and incorporates them into the project):

- An archaeologist shall be present on-site to monitor all ground-disturbing activities. Where historical or archaeological artifacts are found, work in areas where remains or artifacts are found will be restricted or stopped until proper protocols are met, as described below:
  - Work at the location of the find will halt immediately within thirty feet of the find. If an archaeologist is not present at the time of the discovery, the applicant shall contact an archaeologist for evaluation of the find to determine whether it qualifies as a unique archaeological resource as defined by this chapter;
  - If the find is determined not to be a Unique Archaeological Resource, construction can continue. The archaeologist will prepare a brief informal memo/letter that describes and assesses the significance of the resource, including a discussion of the methods used to determine significance for the find;
  - If the find appears significant and to qualify as a unique archaeological resource, the archaeologist will determine if the resource can be avoided and will detail avoidance procedures in a formal memo/letter; and
  - If the resource cannot be avoided, the archaeologist shall develop within forty-eight hours an action plan to avoid or minimize impacts. The field crew shall not proceed until the action plan is approved by the community development director. The action plan shall be in conformance with California Public Resources Code 21083.2.
  
- All development projects located within an archaeological sensitivity area and/or containing known archaeological resources on-site shall also be subject to the following measures as standard conditions of project approval:
  - This project may adversely impact undocumented human remains or unintentionally discover significant historic or archaeological materials. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply. If human remains are discovered, it is probable they are the remains of Native Americans.
    - If human remains are encountered they shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need to know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.
    - Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
    - Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.



- In the event that known or suspected Native American remains are encountered or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials, and historic structure remains such as stone-lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the exclusion zone as defined below.
- An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the Monitoring Archaeologist (typically 25-50ft for single burial or archaeological find).
- The exclusion zone shall be secured (e.g., 24 hour surveillance) as directed by the City or County if considered prudent to avoid further disturbances.
- The Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition:
  - The City of Morgan Hill Community Development Director
  - The Contractor’s Point(s) of Contact
  - The Coroner of the County of Santa Clara (if human remains found)
  - The Native American Heritage Commission (NAHC) in Sacramento
  - The Amah Mutsun Tribal Band
- The Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American the Coroner has 24 hours to notify the NAHC.
- The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) from the Amah Mutsun Tribal Band. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
- Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.
- Within 24 hours of their notification by the NAHC, the MLD may recommend to the City’s community development director the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave

goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the Amah Mutsun Tribal Band may be considered and carried out.

- If the MLD recommendation is rejected by the City of Morgan Hill the parties will attempt to mediate the disagreement with the NAHC. If mediation fails then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

Implementation of these standard measures would ensure that development allowed under the proposed General Plan amendment would not result in significant impacts to archaeological resources.

#### **4.5.2.2      *Impacts to Historic Resources***

Per the City of Morgan Hill's list of historic resources, there are no historic structures located in the immediate vicinity of the project site. However, structures on APNs 779-04-056, -005, -030, and -015 may be over 50 years of age. These structures are not currently listed as historical resources, and do not appear to be archaeologically significant. However, do to their age, these structures may be eligible for listing on the California Register of Historical Resources, National Register of Historic Places, and/or the City of Morgan Hill's list of historic resources now or in the future.

Under the City's Municipal Code (Chapter 18.75), prior to approval of modification or demolition of existing structures, the status of each building over 45 years old (potentially significant historic structures) will need to be determined at the time of a proposed discretionary approval. The removal of a structure that is eligible for listing on the California Register, National Register or the City's list of historic resources could be a significant impact. Program mitigation measures included in the City's Municipal Code and described below outline requirements for modifying or moving historic structures and obtaining a Historic Alteration Permit. In the event substantial impacts to a historic resource are identified in the future, additional environmental review could be required.

Implementation of policies in the General Plan and Municipal Code will avoid potential historic resources impacts on the site that could occur as a result of future development.

#### **4.5.2.3      *Program Mitigation and Avoidance Measures***

##### **General Plan Policies**

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating cultural resource impacts resulting from planned development within the City. All future development addressed by this Initial Study would be subject to the development policies and actions listed in the City's General Plan, including the following:

- *Historic Preservation Policy 8a* – Encourage Preservation & Rehabilitation of Historic Structures
- *Historic Preservation Action 8.2* – Identify & Protect Heritage Resources (SCJAP 15.09)

- *Historic Preservation Action 8.3* – Evaluate Alternatives to Demolition of Historically Significant Buildings
- *Historic Preservation Action 8.4* – Designate Historically Significant Cultural Resources & Offer Rehabilitation Loans or Grants

#### 4.5.4 Conclusion

With implementation of program mitigation measures, the proposed project would not result in an impact to historic resources. The project would avoid impacts to buried cultural resources with implementation of standard measures. **(Less Than Significant Impact with Mitigation)**

## 4.6 GEOLOGY AND SOILS

### 4.6.1 Setting

#### 4.6.1.1 *Geology and Soils*

According to the City of Morgan Hill's *Geology, Geologic, and Geological Hazards Study* (1991), the project site is underlain by Old Alluvium (Qoa), which consists of poorly consolidated to well consolidated deposits of gravel, sand, silt and clay. Native soils are described as unconsolidated colluvium, valley floor alluvium, or terrace deposits on flat or nearly flat ground (Sun). The northwest corner of the site, where West Little Llagas Creek is located, is underlain by Active Alluvium (Qa), which consists of unconsolidated gravel, sand, silt, and clay in an active or recently active stream channel.<sup>12</sup>

As described in the Biological Evaluation completed by *Live Oak Associates, Inc.*, soils on the site are classified as San Ysidro Loam (SdA) and Pleasanton Gravelly Loam (PpA). Soils in the area near West Little Llagas Creek are classified as Zamora Clay Loam (ZbA). ZbA and PpA soils are described as moderately expansive, and SdA soils are described as highly expansive.<sup>13</sup>

The potential for erosion and landslides in the project area is low due to the flat slope of the project site. The project site is not located within a landslide hazard zone.<sup>14</sup>

#### 4.6.1.2 *Seismicity*

Morgan Hill is located in the seismically active San Francisco Bay Area. An earthquake of moderate to high magnitude generated within the San Francisco Bay region could cause considerable ground shaking at the project site. The degree of shaking is dependent on the magnitude of the event, the distance to its zone of rupture, and local geologic conditions. The project site is not located in a fault rupture hazard zone.<sup>15</sup>

The nearest fault lines to the site include the San Andreas Fault, approximately 17 miles west of the project site, the Hayward Fault, approximately 14 miles north, and the Calaveras Fault, approximately five miles east.

#### 4.6.1.3 *Liquefaction and Lateral Spreading*

Liquefaction is the result of seismic activity and is characterized as the transformation of loosely water-saturated soils from a solid state to a liquid-like state after ground shaking. There are many variables that contribute to liquefaction including the age of the soil, soil type, soil cohesion, soil density, and ground water level. The sediments left by the Diablo Mountain Range and the Santa Cruz Mountains formed broad alluvial fans during the past 10,000 years, resulting in a relatively young valley, which is more susceptible to liquefaction. The project site is located in an area with a very low liquefaction hazard level.<sup>16</sup>

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<sup>12</sup> Pacific Geotechnical Engineering, Ground Movement Potential Map Folio, December 1991.

<sup>13</sup> United States Department of Agriculture, Soil Conservation Service, Soils of Santa Clara County, 1968.

<sup>14</sup> Association of Bay Area Governments (ABAG). <http://www.abag.ca.gov/bayarea/eqmaps/landslide/index.html>

<sup>15</sup> Association of Bay Area Governments (ABAG). <http://www.abag.ca.gov/bayarea/eqmaps/faults/>

<sup>16</sup> Association of Bay Area Governments (ABAG). <http://www.abag.ca.gov/bayarea/eqmaps/liquefac/liquefac.html>

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. The area of the project site near the West Little Llagas Creek channel could be subject to lateral spreading.

**4.6.2 Environmental Checklist and Discussion**

GEOLOGY AND SOILS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a) Rupture of a known earthquake fault, as described 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.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	7,8,9
b) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7,8,9
c) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7,8,10
d) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	7,8
2) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7,8
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7,8
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7,8
5) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	7,8



#### **4.6.2.1            *Geology, Soils, and Erosion***

Soil conditions on the project site that may result in a hazard to future residents or property, such as expansive soils, can be avoided using the standard engineering and design techniques applied to new construction projects within the City of Morgan Hill.

Sizable future development projects on the site will be required to prepare an Erosion Control Plan as a standard condition prior to issuance of building and/or site development permit, as required by the Public Works Department. Conformance with the measures in the erosion control plan would reduce soil erosion during construction.

Future development of the project site would not result in a hazard to future occupants due to landslide or liquefaction hazards. Expansive soil conditions could damage future development and improvements, which would represent a significant impact unless substantial damage is avoided by incorporating appropriate engineering into the grading and foundation design of proposed buildings, as described in the standard measures below.

##### Standard Measures

In accordance with the City of Morgan Hill standards, future development on the project site will be required to implement the following measures to reduce and/or avoid soil hazards and substantial erosion impacts:

- Prior to issuance of site development permits, the applicant shall provide two copies of a soils (geotechnical) engineering report prepared by a registered civil (geotechnical) engineer to the City of Morgan Hill Building Division for review and approval. The report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading criteria for corrective measures, and opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes, per Uniform Building Code (UBC) Appendix Chapter 70. The report shall also include soil classification and foundation investigation as required by UBC Chapter 29 (UBC Appendix Chapter 33).
- The project shall implement standard grading and best management practices, including but not limited to, street sweeping, fiber rolls, inlet protection, stockpile covering or watering, covering of trucks, and/or replanting of vegetation, to prevent substantial erosion and siltation during development of the site.

#### **4.6.2.2            *Seismicity and Seismic Hazards***

As previously discussed, the City of Morgan Hill is located in a seismically active region, and therefore, strong ground shaking would be expected during the lifetime of the future development on the project site.

Impacts from seismic and seismic-related hazards can be minimized through the use of standard engineering and seismic safety design techniques. Building design and construction would be completed in conformance with project specific geotechnical reports reviewed by the City of Morgan

Hill Building Division as a standard condition of development. Buildings will be required to meet the requirements of appropriate Building and Fire Codes, as adopted by the City of Morgan Hill.

#### **4.6.2.3      *Program Mitigation and Avoidance Measures***

##### **General Plan and Municipal Code Policies**

Various City policies and standards included in the General Plan, Municipal Code (MHMC), Zoning Ordinance, and Building Code have been adopted for the purpose of avoiding or mitigating geology, soils, and seismicity impacts resulting from planned development within the City. All future development addressed by this Initial Study would be subject to the following development policies and standards:

- *Environmental Hazards Policy 1b* – Where urban development has already occurred and there has been extensive capital improvements made, use mitigation procedures for development on lands with geologic hazards, including geologic investigations on a scale commensurate with development where geologic data indicates there is a known or suspected problem.
- *Environmental Hazards Policy 1d* - Known or potential geologic, fire, and flood hazards should be reported as part of every real estate transaction, as well as recordation on documents to be reported for building permits, subdivisions and land development reports. Mitigation of hazards should be noted in the same manner.
- *Environmental Hazards Policy 1g* - New development should avoid hazardous and sensitive areas, and should occur only where it can be built without risking health and safety. New habitable structures should not be allowed in areas of highest hazard such as floodways, active landslides, active fault traces, and airport safety zones. In areas of less risk, development should be limited and designed to reduce risks to an acceptable level. (SCJAP 15.00)
- *Environmental Hazards Action 2.7* - Require geotechnical investigations on all projects in unstable areas, including areas of expansive soils, prior to construction to insure that the potential hazards are identified and can be properly mitigated. (SCJAP 15.13)
- *Environmental Hazards Action 2.10* - Contract with a consulting geologist for the review of development projects in potentially hazardous areas with costs covered by a fee to the developer (SCJAP 15.13b)

##### **City of Morgan Hill Standard Measures**

- Future building design and construction would be completed in conformance with a project-specific soil survey and geotechnical report, if warranted, and reviewed by the City of Morgan Hill Building Division as a standard condition of development. The buildings will be required to meet the requirements of appropriate Building and Fire codes, as adopted by the City of Morgan Hill.

- Future development on the site will be required to prepare an Erosion Control Plan as a standard condition prior to issuance of a building and/or site development permit, subject to review and approval of the Public Works Department. Conformance with the measures in the erosion control plan would reduce soil erosion during future construction.

#### **4.6.3            Conclusion**

With the implementation of standard engineering and seismic safety design and erosion control measures required by the City of Morgan Hill, future development of the project site would not result in significant geologic or seismic hazards. **(Less Than Significant Impact)**

## 4.7 GREENHOUSE GAS EMISSIONS

### 4.7.1 Setting

This section provides a general discussion of global climate change and focuses on emissions from human activities that alter the chemical composition of the atmosphere. The discussion on global climate change and greenhouse gas emissions is based upon the California Global Warming Solutions Act of 2006 (Assembly Bill (AB) 32), the 2006 and 2009 Climate Action Team (CAT) reports to Governor Schwarzenegger and the Legislature, and research, information and analysis completed by the International Panel on Climate Change (IPCC), the United States Environmental Protection Agency, California Air Resources Board, and the CAT.

Global climate change refers to changes in weather including temperatures, precipitation, and wind patterns. Global temperatures are modulated by naturally occurring and anthropogenic (generated by mankind) atmospheric gases such as carbon dioxide, methane, and nitrous oxide.<sup>17</sup> These gases allow sunlight into the Earth's atmosphere but prevent heat from radiating back out into outer space and escaping from the earth's atmosphere, thus altering the Earth's energy balance. This phenomenon is known as the greenhouse effect.

Naturally occurring greenhouse gases include water vapor<sup>18</sup>, carbon dioxide, methane, nitrous oxide, and ozone. Several classes of halogenated substances that contain fluorine, chlorine, or bromine are also greenhouse gases, but are for the most part solely a product of industrial activities.

Agencies at the international, national, state, and local levels are considering strategies to control emissions of gases that contribute to global warming. There is no comprehensive strategy that is being implemented on a global scale that addresses climate change; however, in California a multi-agency "Climate Action Team", has identified a range of strategies and the Air Resources Board (ARB), under Assembly Bill (AB) 32, has approved the *Climate Change Scoping Plan*. AB 32 requires achievement by 2020 of a statewide greenhouse gas emissions limit equivalent to 1990 emissions, and the adoption of rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions. The ARB and other state agencies are currently working on regulations and other initiatives to implement the *Scoping Plan*. By 2050, the state plans to reduce emissions to 80 percent below 1990 levels.

The California Natural Resources Agency, as required under state law (Public Resources Code §21083.05) has amended the State CEQA Guidelines to address the analysis and mitigation of greenhouse gas emissions, effective March 18, 2010. In these changes to the CEQA Guidelines, Lead Agencies, such as the City of Morgan Hill, retain discretion to determine the significance of impacts from greenhouse gas emissions based upon individual circumstances.

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<sup>17</sup> IPCC, Summary for Policymakers. In: Climate Change 2007: The Physical Science Bases. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor, and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. 2007. Available at: <http://ipcc.ch/>

<sup>18</sup> Concentrations of water are highly variable in the atmosphere over time, with water occurring as vapor, cloud droplets and ice crystals. Changes in its concentration are also considered to be a result of climate feedbacks rather than a direct result of industrialization or other human activities. For this reason, water vapor is not discussed further as a greenhouse gas.

Neither CEQA nor the CEQA Guidelines provide a specific methodology for analysis of greenhouse gases. Given the global scope of global climate change, the issue becomes one of cumulative impacts and translating the issue down to the level of a CEQA document for a specific project in a way that is meaningful to the decision making process.

The Bay Area Air Quality Management District (BAAQMD) is primarily responsible for assuring that the national and state ambient air quality standards are attained and maintained in the Bay Area. On June 2, 2010, BAAQMD adopted thresholds of significance for greenhouse gas emissions for both Plan-level and Project-level CEQA analyses and describes methods for estimating greenhouse gas and assessing whether projects make a cumulatively considerable contribution to greenhouse gas emissions. Using a methodology that models how new land use development in the San Francisco Bay area can meet AB 32 GHG reduction goals, the BAAQMD Guidelines establish a significance threshold of 1,100 metric tons of CO2 per year. In addition to this bright line threshold, the Guidelines include an “efficiency” threshold of 4.6 metric tons of CO2 per year per service population, which is defined as residents plus employees of the project.

**4.7.1.2 Existing Baseline Emissions**

The existing development on the project site is a direct and indirect source of greenhouse gas emissions from activities related to natural gas and electricity use, transportation, and the breakdown of solid waste.

**4.7.2 Environmental Checklist and Discussion of Impacts**

GREENHOUSE GAS EMISSIONS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,5
2) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,5

**4.7.2.1 Greenhouse Gas Emissions from the Project**

Given the overwhelming scope of global climate change, it is not anticipated that a single development project would have an individually discernable effect on global climate change. It is more appropriate to conclude that the greenhouse gas emissions generated by the proposed project would combine with emissions across the state, nation, and globe to cumulatively contribute to global climate change. Greenhouse gas emissions from the proposed project would include emissions from constructing and operating future development on the project site.



## Estimated Generated Greenhouse Gas Emissions

### Operational Impacts

The URBEMIS2007 and BGM models were used to estimate the operational greenhouse gas emissions of future development on the site from transportation, area sources, electricity, natural gas, water and wastewater, and solid waste. Refer to Appendix C for a summary of the model outputs.

It is estimated that the net annual operational greenhouse gas emissions from future development on the site, including emissions from transportation, area sources, electricity use, natural gas use, water use, wastewater generation, and solid waste generation would be approximately 8,452 net new metric tons of CO<sub>2</sub> equivalents a year. The emissions would be above the BAAQMD's bright line threshold of 1,100 metric tons per year threshold. The project's emissions of 8.4 metric tons per year per service population would exceed the efficiency threshold of 4.6 metric tons per year per service population.

**Impact GHG-1:** Future development on the project site would exceed BAAQMD thresholds for greenhouse gases. **(Significant Impact)**

As discussed in the project description, the project is proposing GPAs, rezoning/prezonings, and a USA adjustment, not specific development proposals. In the absence of specific development proposals, anticipated future development scenarios were developed for the purposes of this Initial Study. These development scenarios were used to model greenhouse gas emissions that could result from the proposed project. Depending on exact nature of future development, specific emissions and service populations associated with the project could vary.

The City of Morgan Hill is moving forward with citywide comprehensive strategy for reducing emissions to comply with statewide goals in the form of a Climate Action Plan (CAP). Future development proposals will be required to analyze greenhouse gas emissions as part of the project-level environmental review and demonstrate consistency with the CAP.

Significant greenhouse gas impacts resulting from future development on the project site would be mitigated by two pending General Plan policies, *Policy 7m* and *Action 7.10*, which mandate the development of a CAP and are discussed in further detail on the following page.

### Construction Impacts (Short-Term Emissions)

BAAQMD has not adopted a threshold of significance for construction related greenhouse gas emissions, although the modeling and disclosure of emissions are recommended. Construction of the future development on the site would involve emissions associated with equipment and vehicles used to construct buildings, as well as emissions associated with manufacturing materials used to construct the project. As described in Section 4.3.2.4 of this Initial Study, modeling the emissions of future construction resulting from the proposed project is problematic. Because future development would occur during a non-specific timeframe, and because the parcels on the site are owned by several different land owners with no common development plans, formulating a construction schedule would be impractical and speculative. The URBEMIS2007 model relies on a construction schedule, complete with the timing and duration of construction phases, to generate estimates of emissions. As part of the project-level environmental review required for future development projects on the site,

construction emissions would be screened, and modeled if necessary, according to the BAAQMD Guidelines. Future greenhouse gas emissions related to construction on the site would be temporary in nature, and construction of the project would not interfere with meeting the AB 32 GHG reduction goals.

#### **4.7.2.2        *Program Mitigation and Avoidance Measures***

Various policies in the City’s General Plan and measures in the Municipal Code are designed to reduce energy use and promote the use of alternative modes of transportation. These measures can result in a reduction in emissions of greenhouse gases from the combustion of fuels. The City of Morgan Hill does not currently have an adopted Greenhouse Gas Reduction Strategy as defined under the CEQA Guidelines or BAAQMD CEQA Guidelines.

#### **General Plan Policies**

Measures in the General Plan that are designed to reduce vehicle miles traveled and energy use in buildings include:

- *Bikeways Policy 8b* – Promote Walking as Alternate Transportation Mode (SCJAP 11.03)
- *Conservation Policy 7a* – Design New Development to Exceed State Standards Water & Energy Use
- *Conservation Policy 7b* – Promote Energy Conservation Techniques & Efficiency in Buildings
- *Conservation Policy 7g* - The landscaping plans for new development should address the planting of trees and shrubs that will provide shade to reduce the need for cooling systems and allow for winter daylighting.
- *Conservation Policy 7j* – Incorporate Renewable Energy Generation in New & Existing Development
- *Conservation Policy 7k* - Promote water conservation and efficient water use in all public and private development projects and landscaping plans.
- *Conservation Policy 7l* - Encourage use of non-potable water for landscape irrigation.
- *Conservation Action 7.5* – Emphasize Energy Conservation Building Techniques for New Residential Construction (MHMC Chapter 18.78)

#### **Pending General Plan Policies**

The City is in the process of amending the General Plan to include the following two policies related to greenhouse gases:

- *Conservation Policy 7m* – Reduce greenhouse gas emissions caused by actions within the City of Morgan Hill.
- *Conservation Action 7.10* – Prepare and implement a Climate Action Plan (CAP) by the year 2015 that will reduce greenhouse gas emissions within the City of Morgan Hill by 2020 consistent with the direction of the State of California, as outlined in Assembly Bill 32: Global Warming Solutions Act.

### **Morgan Hill Municipal Code**

#### Water Conserving Landscapes Ordinance

The City of Morgan Hill Municipal Code includes requirements for energy and water conservation for new and existing development within the City. These measures include the Water Conserving Landscapes Ordinance adopted in February 2006. This ordinance regulates landscape design, construction, and maintenance. It promotes efficient water use and management of peak season water demands.

#### Sustainable Building Regulations

Chapter 15.65 of the Municipal Code lists Sustainable Building Regulations. The purpose of this chapter is to assure that commercial and residential development is consistent with the City's environmental agenda and General Plan conservation policies 7a and 7b (listed above) to create a more sustainable community by incorporating sustainable building measures into the design, construction, and maintenance of new and existing buildings. The sustainable building provisions referenced in this chapter are designed to achieve the following objectives:

- Increase energy efficiency in buildings.
- Encourage water and resource conservation.
- Reduce waste generated by construction projects.
- Provide durable buildings that are efficient and economical to own and operate.
- Promote healthy and productive indoor environments for residents, workers and visitors to the city.
- Recognize and conserve the energy embodied in existing buildings.

Chapter 15.65 also includes details on the process of document submission, design review, sustainable building compliance, exceptions, appeal, and enforcement. Future development under the proposed General Plan land use designation and rezoning would be required to comply with all applicable regulations and processes listed in Chapter 15.65 of the Municipal Code.

#### Title 24

The Morgan Hill Municipal Code requires all buildings to conform to the energy conservation requirements of California Administrative Code Title 24. In addition, the 2010 California Green

Building Standards (CALGreen) Code, which includes more stringent requirements for energy and water conservation in new construction, became effective statewide on January 1, 2011.

### **City of Morgan Hill Environmental Agenda**

In 2007, the City Council adopted an Environmental Agenda to enhance the long-term sustainability of Morgan Hill by reducing environmental impacts, increasing community health, and protecting environmental resources for future generations. Progress on environmental goals is assessed on a yearly basis.

To promote and provide opportunities for residents to reduce GHG emissions, the City of Morgan Hill has taken the following steps:

- Posting a carbon calculator on the City’s website that is specifically designed for Morgan Hill residents to help conceptualize their contribution to global warming and to provide strategies for reducing emissions;
- Promoting bicycling and walking to City of Morgan Hill events through giveaways;
- Requiring green building checklists to be filled out with building permits, and updating residential development control system criteria to strengthen green building incentives;
- Researching programs that would allow residents to purchase local carbon offsets that would directly benefit the community;
- Implementing programs to reduce the cost of installing solar systems;
- Arranging free bus service for VTA community bus route 16 on Earth Day;
- Providing educational material with utility bills; and
- The Sustainable Buildings Ordinance was adopted on December 16, 2009, which established “green building” requirements for both residential and non-residential development.

### **City of Morgan Hill Climate Action Plan**

Preparation of a Climate Action Plan/Comprehensive GHG Reduction Strategy (CAP/GHG Reduction Strategy) is in the City’s current Work Plan. The City of Morgan Hill is committed to preparing a CAP/GHG Reduction Strategy by the year 2015. It is the City’s intent that the CAP/GHG Reduction Strategy will include the elements specified in CEQA Guidelines Section 15183.5(b)(1) as well as the 2010 BAAQMD CEQA Guidelines. The City of Morgan Hill CAP/GHG Reduction Strategy will include the following:

- GHG Inventory for Current Year and Forecast for 2020.
- An adopted GHG Reduction Goal for 2020 for the City from all sources (existing and future) which is equivalent to 1990 GHG emission levels, using the service population approach of statewide carbon-efficiency.
- Identification of feasible reduction measures to reduce GHG emissions for 2020 to 1990 levels.
- Application of relevant reduction measures included in the AB 32 Scoping Plan that are within the City’s land use authority (such as building energy efficiency, etc.).
- Quantification of the reduction effectiveness of each of the feasible measures identified including disclosure of calculation method and assumptions.
- Identification of implementation steps to achieve the identified goal by 2020.

- Procedures for monitoring and updating the GHG inventory and reduction measures at least twice before 2020 or at least every five years.
- Identification of responsible parties for implementation.
- Schedule of implementation.

#### **4.7.3 Conclusion**

With implementation of program mitigation measures, the proposed project would not result in significant impacts related to greenhouse gas emissions. **(Less than Significant Impact with Mitigation)**



## 4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a Phase I Environmental Site Assessment completed by *Belinda P. Blackie, P.E., R.E.A* in August 2011. A copy of this report is provided in Appendix D.

### 4.8.1 Setting

Hazardous materials are commonly used by large institutions, industrial, commercial, and agricultural businesses. Hazardous materials include a broad range of common substances such as motor oil and fuel, pesticides, detergents, paint, and solvents. A substance may be considered hazardous if, due to its chemical and/or physical properties, it poses a substantial hazard to the environment when it is improperly treated, stored, transported, disposed, or released in to the atmosphere in the event of an accident. Many of the existing and past businesses located throughout the City, use, store, and dispose of hazardous materials.

The City of Morgan Hill is developed with a mixture of industrial, office, commercial, residential, open space, and public/quasi-public uses. Currently, there are no users of hazardous materials with potential for off-site consequences, as regulated under the Cal-ARP program.<sup>19</sup>

#### 4.8.1.1 *Possible On-Site Hazards and Hazardous Materials*

##### **Hazardous Materials Storage and Use**

###### Watsonville-Royal Oaks Site

Hazardous materials observed at the Royal Oaks mushroom processing facility (APNs 779-04-052, 779-04-056, and 779-04-067) included the following: 70 gallons of waste oil, one 55-gallon drum of waste oil filters, 55-gallon poly drums and water treatment vessels of liquid chlorine for the water treatment system and mushroom disinfection, a small bag of Dursban, a 55-gallon drum of iodine soap, two 55-gallon drums of ammonium chloride disinfectant, a propane above ground storage tank (AST), a 1,000-gallon diesel AST, a 55-gallon drum of water treatment chemical, a small diesel AST, and small quantities of assorted paints and other maintenance/shop materials located at multiple areas of the facility. Dark staining of soil beneath the wooden floor of the oil storage shed was observed. Significant discoloration of the wooden floor of the chemical storage shed and the concrete slab within the diesel AST secondary containment area also were observed. A brownish sheen was observed on many of the rainwater puddles present across undeveloped portions of the facility.

###### Monterey-City of Morgan Hill Site

The Walton and Sons Masonry facility at 15135 Monterey Road (APN 779-04-010) was observed to have numerous one- to five-gallon containers of assorted motor oil and antifreeze, several containers of assorted sizes containing gasoline, one approximately 10-gallon container of what appeared to be oil and several five-gallon containers of assorted liquid masonry materials, such as curing compound, at the time of the site reconnaissance. Minor staining of the gravel surface in the vicinity of the

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<sup>19</sup> The Cal-ARP program regulates hazardous materials use and storage at facilities that store quantities of regulated substances above threshold quantities.

liquid masonry materials, stored beneath a job trailer near the middle of the facility, was observed; staining or other evidence of spills or releases was not observed at the other storage locations.

Pallets of materials, possibly agriculturally-related compounds, as well as several containers of what appeared to be liquid, were observed in the storage yard area of the Bay Area Chrysanthemum Growers Association Co-Op, Inc. facility at 15075 Monterey Road (APN 779-04-015). Observation of the materials was made from distant public right-of-ways only, so no details on the types of materials present and the potential for releases to have occurred were able to be ascertained.

### **Underground Storage Tanks (USTs)**

#### Watsonville-Royal Oaks Site

USTs historically were documented on the former White Gasoline parcel (APN 779-04-001). Six steel gasoline USTs (one 250-gallon, three 550-gallon, one 1,350 gallon and one 20-gallon reservoir) were removed from the parcel in March 2010, approximately 50 years after the station burned down. Soil sampling conducted following removal of USTs detected significant concentrations of TPHg, TPHd, naphthalene and organic lead, as well as low levels of toluene, ethylbenzene and xylenes. Approximately 1,100 cubic yards of soil subsequently were over-excavated from the former location of the tanks and verification samples collected following the over-excavation demonstrated up to 43 ppm TPHg, 19 ppm TPHd, 0.092 ppm naphthalene, 0.093 ppm organic lead and less than one ppm each toluene, ethylbenzene and xylenes. TPHg, benzene, toluene, ethylbenzene and xylenes were not detected in ground water. Based on the monitoring data, the Santa Clara County Department of Environmental Health (SCCDEH) granted closure for the parcel in 2011 with the closure summary stating that the corrective action did not need to be reviewed if land use changed.

USTs also historically were documented on the Royal Oak Mushrooms parcel (APN 779-04-056). Two 550-gasoline USTs and one 150-gallon gasoline UST installed in approximately 1975 were removed from an area adjacent northeast of the entrance gate to the facility in January 1994. Soil sampling conducted following removal of USTs detected significant concentrations of TPHg, benzene, toluene, ethylbenzene and xylenes. Approximately 200 cubic yards of soil subsequently were over-excavated from the former location of the tanks, and verification samples collected following the over-excavation demonstrated non-detectable<sup>20</sup> concentrations of TPHg, benzene, toluene, ethylbenzene and xylenes. Non-detectable concentrations of the same compounds were documented in ground water from the vicinity of the former tanks. Based on the monitoring data, the SCCDEH granted closure for the parcel in 1996 with the closure summary stating that the corrective action did not need to be reviewed if land use changed.

### **Agricultural Uses**

Agricultural cultivation of portions of the site with orchards and field crops, as well as the presence of a nursery, was documented from at least the mid-1930s through the mid-1990s. Widespread use of the pesticide DDT, a persistent compound in soil, generally occurred during this time period. Standard agricultural practices also likely included application of other agricultural chemicals, possibly including lead arsenate. In addition, pesticides may have been stored in outbuildings on the

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<sup>20</sup> “Non-detectable” is used in this context to mean not detected above the laboratory detection limit. It can either mean the compounds were detected at a concentration lower than what can be detected by the laboratory instruments or that the compounds were not present at all.

parcels and may have been mixed and loaded into application tanks in the vicinity of water production wells.

### **Asbestos-Containing Materials and Lead-Based Paint**

Asbestos containing materials (ACMs) are of concern because exposure to ACMs has been linked to cancer. The Environmental Protection Agency (EPA) defines ACMs as materials containing more than one percent (1%) asbestos. Title 8, Section 1529, of the California Code of Regulations (CCR) however, defines asbestos-containing construction material (ACCM) as any manufactured construction material that contains more than one-tenth of one percent (0.1%) asbestos by weight. On-site buildings constructed prior to 1980 likely contain asbestos-containing building materials. The structures on the site, other than Oakwood Country School and Morgan Hill Bible Church, were constructed prior to 1980.

Lead-based paint is of concern, both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead interior dust and exterior soil. Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. Lead compounds continued to be used as corrosion inhibitors, pigments and drying agents from the early 1950's. In 1972, the Consumer Products Safety Commission limited lead content in new paint to 0.5 percent (5,000 ppm) and in 1978, to 0.06 percent (600 ppm). On-site buildings constructed prior to 1978 likely contain lead-based paint. Lead-based paint may be present both on painted surfaces and on exposed soil surrounding painted structures, due to flaking and peeling of aged paint. As with asbestos, buildings at Oakwood School and surfaces painted during renovation of the Morgan Hill Bible Church buildings would be unlikely to contain lead-based paint, as they were installed in or subsequent to the 1990s. The rest of the structures on the site were constructed prior to 1978.

#### **4.8.1.3 Other Hazards**

The project site is not located within the Santa Clara County Airport Land Use Commission (ALUC) jurisdiction, nor is it located within two miles of a public airport. The site is not on one of the City's designated evacuation routes. The site is not located within an area subject to wildfires.

#### **4.8.2 Environmental Checklist and Discussion**

HAZARDS AND HAZARDOUS MATERIALS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project: 1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1

HAZARDS AND HAZARDOUS MATERIALS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
2) 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,11
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,11
4) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,11
5) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
8) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,12

#### 4.8.2.1 *Potential On-Site Sources of Contamination*

##### **Hazardous Materials Storage and Use**

###### Watsonville-Royal Oaks Site

Although large quantities of hazardous materials are not utilized at the Royal Oak Mushrooms facility (APNs 779-04-056 and 779-04-056 -067), hazardous materials have been used and stored on the parcels for many years. Visible evidence of spillage was observed on the soil underlying the oil storage shed, as well as on the wooden floor of the chemical storage shed and the concrete pad beneath the diesel AST containment area and boiler blow down (i.e., wastewater from boilers) previously was disposed in a lined pond. In addition, a slight sheen was visible on many of the rainwater puddles observed on the parcels.

**Impact HAZ-1:** Visually impacted soil is present beneath the oil storage shed on the Watsonville-Royal Oaks site. **(Significant Impact)**

###### Monterey-City of Morgan Hill Site

Visible evidence of spillage of the masonry materials stored beneath the job trailer in the Walton and Sons Masonry portion of APN 779-04-010 was observed on the gravel beneath the materials.

**Impact HAZ-2:** Visually impacted gravel is present on the Monterey-City of Morgan Hill site. **(Significant Impact)**

##### **Underground Storage Tanks (USTs)**

The historic leaking UST cases at the former White Gasoline (APN 779-04-001) and Royal Oak Mushrooms (779-04-052 and -056) facilities are an historic Recognized Environmental Condition (REC) for the site. No further work appears warranted however, as the releases were characterized and remediated under SCCEHD oversight with unconditional case closure granted. For this reason, the historic ground water contamination is not considered a significant impact. However, if pockets of impacted soil are encountered during earthwork in the former UST locations, the material must be segregated, sampled and appropriately disposed.

##### **Agricultural Uses**

Historic cultivation of portions of the site with orchards and row crops, and use of a small portion of the site as a nursery for a short period of time, was documented in sources reviewed for this study. Residual agricultural chemicals and related metals may remain in shallow soils of the historically cultivated areas, as well as in soils around water production wells and in historic outbuilding locations where materials may have been mixed and/or stored. The potential presence of such compounds is considered a significant impact.

**Impact HAZ-3:** Soils on the site may contain significant levels of agricultural chemicals. **(Significant Impact)**



## **Asbestos-Containing Materials and Lead-Based Paint**

Since the majority of the on-site buildings were constructed prior to 1980, asbestos-containing building materials may have been used. The National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines require that all potentially friable asbestos containing materials be removed prior to building demolition or renovation that may disturb asbestos containing materials (ACMs).

Due to the age of the majority of the buildings on-site, lead-based paint may be present. Demolition of buildings that contain lead-based paint may create lead-based dust at concentrations that would expose workers and nearby receptors to potential health risks. State regulations require that air monitoring be performed during and following renovation or demolition activities at sites containing lead-based paint. If the lead-based paint is peeling, flaking, or blistered, it would need to be removed prior to demolition. It is assumed that such paint would become separated from the building components during demolition activities; it must be managed and disposed of as a separate waste stream. If the lead-based paint is still bonded to the building materials, its removal is not required prior to demolition.

Future development on the project site could include removal of structures containing ACMs and lead-based paint. Implementation of the standard measures included below would reduce impacts to a less than significant level.

### Standard Measures

Development in the City of Morgan Hill is required to conform to the following regulatory programs to reduce impacts due to the presence of ACMs and/or lead-based paint to a less than significant level:

- As appropriate, a lead survey of painted surfaces and soil around buildings on parcels proposed for redevelopment shall be performed prior to demolition. Requirements outlined by Cal/OSHA Lead in Construction Standard, Title 8, CCR 1532.1 would be followed during demolition activities, including employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- All potentially friable ACMs shall be removed in accordance with the NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities shall be undertaken in accordance with OSHA standards contained in Title 8 of the CCR, Section 1529, to protect workers from exposure to asbestos. Specific measures could include air monitoring during demolition and the use of vacuum extraction for asbestos-containing materials.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one (1) percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing

more than one (1) percent asbestos shall be completed in accordance with BAAQMD requirements.

#### **4.8.2.2      *Impacts to and from the Proposed Project***

Future commercial development on the project site may support processes that would emit or require the use or transport of hazardous materials.

**Impact HAZ-4:**      Future development on the site may support processes that would emit or require the use or transport of hazardous materials in close proximity to residential uses and a school. **(Significant Impact)**

As can be expected in any developed urban area with a long history such as the City of Morgan Hill's, hazardous material accidents have occurred. Existing and/or previous uses on the project site and/or in the project area may have resulted in on-site hazardous material concerns. The proposed General Plan land use designation and zoning would encourage development on the site. If hazardous substances are present on the site, they could be released (e.g., dust and runoff) into the environment during construction, exposing construction workers, surrounding residences and the school to harmful chemicals. Future occupants could also be exposed to on-site contamination.

**Impact HAZ-5:**      Future development on the site could expose construction workers, the surrounding residences and school, and future occupants to harmful chemicals. **(Significant Impact)**

#### **4.8.2.3      *Program Mitigation and Avoidance Measures***

##### **General Plan Policies**

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from planned development within the City. All future development addressed by this Initial Study would be subject to the development policies and actions listed in the City's General Plan, including the following:

- *Hazardous Materials Policy 3a* - In order to minimize potential hazards, require generators of hazardous waste to use on-site pretreatment prior to discharging treated waste effluent into the sewer system, using such methods as neutralization, precipitation and oxidation. (SCJAP 9.05)
- *Hazardous Materials Policy 3b* - Continue a program of regular inspections and monitoring to ensure compliance with local, State, and Federal regulations, in order to reduce the risks associated with the use and handling of hazardous materials and wastes. (SCJAP 9.00)
- *Hazardous Materials Policy 3c* - Continue to implement the Joint Powers Pretreatment Program for industrial and commercial hazardous material users and/or hazardous waste generators, and coordinate as appropriate with MOU inspections, Hazardous Materials Storage Ordinance (HMSO) regulations, and implementation of applicable State laws. (SCJAP 9.01)

- *Hazardous Materials Policy 3d* - Continue to inspect regularly activities that store and/or use hazardous materials, including above-ground and underground storage tanks and related equipment, to ensure compliance with the City's Hazardous Materials Storage Ordinance (HMSO). (SCJAP 9.02)
- *Hazardous Materials Policy 3e* - Regularly inspect those facilities which store hazardous waste on site for less than 90 days (a time period for which a hazardous materials storage permit is not required). (SCJAP 9.03)
- *Hazardous Materials Policy 3f* - Require submittal of a hazardous materials handling plan as a prerequisite for developments requiring zone changes and use permits. (SCJAP 9.04)
- *Hazardous Materials Policy 3g* - Support County and Santa Clara Valley Water District programs to encourage source reduction and waste minimization by smaller firms which generate hazardous wastes. (SCJAP 9.06)
- *Hazardous Materials Policy 3i* - Work with Gilroy, Santa Clara County, Santa Clara Valley Water District, Regional Water Quality Control Board, and local community groups to coordinate and implement public education programs regarding hazardous materials and waste management. (SCJAP 9.08)
- *Hazardous Materials Policy 3j* - During the implementation of "AB 2185" (Calif. Health and Safety Code Chap. 6.95 Division 20 Section 25500 et seq.) and successor legislation, make major efforts to achieve maximum integration between newly-mandated actions and ongoing hazardous materials programs, particularly as they apply to: a) coordinated permit and fee structure, b) coordinated inspections, c) emergency response ("business") plans, d) training programs, e) evacuation requirements, and f) information requirements. (SCJAP 9.09)
- *Hazardous Materials Policy 3k* - Monitor the transportation of hazardous materials and wastes to reduce risks and ensure notification of South County jurisdictions in the event of a leak or spill. (SCJAP 9.10)
- *Hazardous Materials Policy 3l* - Consider designating specific transportation routes for the conveyance of hazardous materials and waste, if the City desires hazardous materials and waste to be transported on routes other than designated truck routes. (SCJAP 9.13)
- *Hazardous Materials Policy 3m* - Support the County's implementation of a Memorandum of Understanding (MOU) between the Department of Health Services (DOHS) and the County Health Department, whereby the County would act as an agent in requiring hazardous material users and waste generators to provide annual records and in monitoring the haulers of hazardous materials and waste. (SCJAP 9.14)
- *Hazardous Materials Policy 3n* - To reduce the risk involved in transporting hazardous waste and decrease the volume of waste that must be disposed of, encourage the generators of hazardous waste to use on-site pretreatment, such as: neutralization, precipitation and oxidation. (SCJAP 9.15)

- *Hazardous Materials Policy 3q* - The Santa Clara County Hazardous Waste Management Plan is herewith incorporated in this General Plan by reference. It is a City policy to restrict off-site hazardous materials operations (Hazardous Materials Reprocessing uses as defined by the Zoning Ordinance) to industrially-zoned sites which have received Conditional Use Permits and which comply with the Santa Clara County Hazardous Waste management Plan or a City-designated equivalent.
- *Hazardous Materials Policy 3r* - Require off-site hazardous materials operations to obtain permits through the process designated in Section 25199 of the California Health and Safety Code, including the Notice of Intent (NOI) and Local Assessment Committee (LAC) steps where applicable.
- *Hazardous Materials Policy 3s* - Continue to allow Small Quantity Generators such as photo laboratories and dry cleaners to locate in appropriate commercial and industrial zones without requiring additional hazardous materials permits, providing that such uses comply with other Federal, State and local hazardous materials laws and regulations and providing that the site does not accept hazardous waste from off-site for reprocessing.
- *Hazardous Materials Policy 3t* - Provide mitigation to remedy the effects of new or expanding development over areas with environmental contamination of any and all unauthorized discharges.
- *Hazardous Materials Action 3.1* - Enforce hazardous waste facility inspection via a Memorandum of Understanding between State Department of Health Services (DOHS) and County Health Department whereby the County Health Department would act as an agent of DOHS in enforcing this provision, and City Hazardous Materials Specialists and Pretreatment Inspectors may conduct inspections. (SCJAP 9.03)
- *Hazardous Materials Action 3.2* - Require that the South County jurisdictions receive reports from the Department of Transportation and the California Highway Patrol regarding spills or leaks on the highway. (SCJAP 9.11)
- *Hazardous Materials Action 3.3* - If a spill occurs while transporting hazardous materials or waste in one of the South County cities or the County, immediately notify the other jurisdictions. (SCJAP 9.12)

#### **Other Programmed Mitigation and Avoidance Measures**

- *AB2185 and AB3777* contain requirements for emergency response plans. The purpose of these plans is to assist local agencies in preparing for a hazardous material spill. Emergency plans identify the potential for accidents in a community, define a chain of command in the event of an emergency, outline escape routes if necessary, and provide other emergency procedures. Each responsible agency maintains detailed operation procedures for responses to hazardous material spills.
- Any necessary clean up and/or remediation would be required to meet all Federal, State, and local regulations. All storage tanks will be properly closed and removed, according to Santa Clara County Fire Department standards, prior to development.

**4.8.3**            **Mitigation and Avoidance Measures to be Considered at the Time of Future Development**

**Visually Impacted Soils**

**MM HAZ-1&2:**        As part of any future project-level environmental review for future development on the site, soil samples shall be collected near the visually impacted areas on APNs 779-04-010, 779-04-056 and 779-04-056 -067 determine the lateral and vertical extent of impacted soils. Impacted soils at the project site shall be over-excavated. Confirmation soil samples shall be collected to document that all impacted soil has been removed. Soil removed from the project site shall be appropriately disposed of as a California hazardous waste (per Title 22 of the California Code of Regulations), with additional analysis and sampling completed per requirements of the permitted landfill facility accepting the impacted soil.

The source and quality of all imported soil during construction activities shall be documented per the guidance of the California Department of Toxic Substances Control.

**Agricultural Chemicals**

**MM HAZ-3:**        As part of any future project-level environmental review for future development on the site, soil sampling and laboratory analyses shall be completed to evaluate the residual pesticide concentrations in soils historically used for agriculture on the project site. If further evaluation indicates the presence of impacted soil, a remediation program for on-site soil removal shall be prepared to the satisfaction of the Director of Planning and the Regional Water Quality Control Board (RWQCB) or other appropriate regulatory agencies.

If imported soil is used during project construction, the source and quality of the imported soil should be evaluated and documented per the guidance of the California Department of Toxic Substances Control.

**4.8.4**            **Conclusion**

The proposed project, in conformance with policies in the General Plan and existing laws and regulations, would not result in significant hazards and hazardous materials impacts. **(Less than Significant Impact with Mitigation)**



## 4.9 HYDROLOGY AND WATER QUALITY

### 4.9.1 Setting

#### 4.9.1.1 *Flooding and Drainage*

According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM), the northern portion of the project site is located in Zone AE (APNs 779-04-001, -056, -003, -004, -005, -030, -072, -074, -032, -033, -010, -015, and portions of -073, -016 and -061), which is defined as an area subject to 100-year floods where the base elevation is known. The base elevation of flooding on the site, which is the water surface elevation during the flood, would range from 321-322 feet above sea level. According to the Phase I ESA completed for the site (Appendix D), elevations on the site range from approximately 315-325 feet above sea level.

The southern portion of the site is located in Zone X (APN 779-04-073), which is defined as areas of 0.2 percent annual chance flood; areas of one percent annual chance flood with average depths of less than one foot or with drainage areas less than one square mile; and areas protected by levees from one percent annual chance flood. Other portions of the site to the south and east are located in Zone D (APNs 779-04-067, -052, and portions of -016 and -061), which is defined as areas in which flood hazards are undetermined, but possible.<sup>21</sup>

West Little Llagas Creek flows underneath the Watsonville/Monterey intersection from west of Watsonville Road and exits east from underneath Monterey Road. A small segment of the creek crosses the northwest corner of the project site. The creek has been modified for flood control purposes in limited areas, including existing reinforced concrete box culverts (RCBC) underneath Watsonville Road and Monterey Road.

Currently, West Little Llagas Creek floods over Watsonville Road during large rain events, closing the road. This is due to the limited capacity of the downstream culvert located underneath Monterey Road. During flood events the flow backs up at this culvert and eventually splits. Approximately half of the flow continues through the culvert and the other portion flows overland on the southwest side of Monterey Road along the project frontage until this overland portion floods over Monterey Road and rejoins West Little Llagas Creek to the east.

#### **City of Morgan Hill Storm Drainage System**

The project area is located within the West Little Llagas Creek Basin.<sup>22</sup> Surface water from the project area generally drains to West Little Llagas Creek, which flows to Llagas Creek and eventually drains to the Monterey Bay. Currently, there are no City storm drainage pipelines or inlet structures within the project area. Stormwater flows are conveyed in the open West Little Llagas channel, culverts under Watsonville Road and Monterey Road, and in a local drainage ditch adjacent to Watsonville Road.

<sup>21</sup> Federal Emergency Management Agency (FEMA). Flood Insurance Rate Maps #06085C0607H. May 18, 2009.

<sup>22</sup> City of Morgan Hill. *Storm Drainage System Master Plan*. January 2002.

## Planned Flood Control Improvements

Future changes under the *Upper Llagas Creek Flood Protection Project* (also known as PL566) are planned for the area southwest of the Watsonville/Monterey intersection.<sup>23</sup> This project would extend an earthen channel southward that would act to reroute flood waters away from Monterey Road. These modifications would significantly reduce the watershed for the reach of West Little Llagas Creek in the vicinity of Monterey Road from the currently shown 5.6 square miles in the Federal Emergency Management Agency (FEMA) Flood Insurance Study.<sup>24</sup> The stormwater infrastructure at Watsonville/Monterey would then adequately handle 100-Year flood flows from this smaller drainage area without any flooding.

A one-mile diversion channel west of Monterey Road, across Watsonville Road, John Wilson Way, and Middle Avenue is currently in the planning and design stage. The diversion channel would continue on to the project site on the Santa Clara Valley Water District (SCVWD) parcel (APN 779-04-067). The SCVWD and City of Morgan Hill plan to start construction after 2015.<sup>25</sup>

### 4.9.1.2 *Dam Failure*

The Association of Bay Area Governments compiled the dam failure inundation hazard maps submitted to the State Office of Emergency Services by dam owners throughout the Bay Area. The project site is located in the Anderson Dam and Chesbro Dam failure inundation hazard zones.

### 4.9.1.3 *Groundwater*

The City of Morgan Hill currently relies on local groundwater as its sole water supply source. The groundwater basin underlying the City is part of the Santa Clara Valley groundwater basin and managed by the Santa Clara Valley Water District (SCVWD). The groundwater basin is divided into three interconnected subbasins consisting of the Santa Clara Valley Subbasin and the Coyote Subbasin to the north, and the Llagas Subbasin to the south. The City's water supply comes from the Coyote and Llagas subbasins.

Based on the Phase I ESA completed for the site, which relied on hydrogeological information for the site vicinity available on the State Water Resources Control Board (SWRCB) Geotracker database, ground water in the site vicinity occurs at depths of approximately 7 to 28 feet. Ground water flow in the site vicinity was documented as generally towards the southeast toward West Little Llagas Creek across Monterey Road.

### 4.9.1.4 *Water Quality*

The water quality of ponds, creeks, streams, and other surface water-bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other

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<sup>23</sup> Santa Clara Valley Water District Website. *Upper Llagas Creek Flood Protection*. Accessed February 4, 2010. Available at: <[http://www.valleywater.org/uploadedFiles/Services/FloodProtection/Projects/UpperLlagas/Upper%20Llagas%20Creek\\_fact%20sheet\\_final.pdf?n=4702](http://www.valleywater.org/uploadedFiles/Services/FloodProtection/Projects/UpperLlagas/Upper%20Llagas%20Creek_fact%20sheet_final.pdf?n=4702)>

<sup>24</sup> MH Engineering Company. *Drainage Study: Appendix D*. December 27, 2009.

<sup>25</sup> Gilroy Dispatch. *Property Needed to Divert Flooding*. January 25, 2010. Available at: <<http://www.gilroydispatch.com/printer/article.asp?c=262654>>

exposed surfaces into storm drains. Stormwater runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, animal feces, etc.) pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

#### **4.9.1.5 Regulatory Framework**

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by water quality control boards, which for the Morgan Hill area south of Cochrane Road is the Central Coast Regional Water Quality Control Board (RWQCB).<sup>26</sup> The Central Coast RWQCB issues and enforces NPDES permits for discharges to water bodies in the portion of Santa Clara County that drains to the Monterey Bay. The RWQCB is also tasked with preparation and revision of a regional Water Quality Control Plan, also known as the Basin Plan. The Central Coast RWQCB's latest Basin Plan was approved in September 1994, and last revised in June 2008. The RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements to control water quality and protect beneficial uses.

Under Section 303(d) of the 1972 Clean Water Act, States are required to identify impaired surface water bodies and develop total maximum daily loads (TMDLs) for contaminants of concern.<sup>27</sup> The TMDL is the quantity of pollutant that can be safely assimilated by a water body without violating water quality standards. Listing of a water body as impaired does not necessarily suggest that the water body cannot support the beneficial uses; rather, the intent is to identify the water body as requiring future development of a TMDL to maintain water quality and reduce the potential for future water quality degradation. The Llagas Creek watershed is listed by the U.S. Environmental Protection Agency as an impaired water body for chloride, fecal coliform, low dissolved oxygen, pH, sodium, and total dissolved solids.

#### **NPDES General Permit for Construction Activity**

The State Water Resources Control Board has implemented a National Pollution Discharge Elimination System (NPDES) General Construction Permit for the State of California. Construction activity subject to this permit includes clearing, grading, and ground disturbances such as stockpiling or excavation. For projects disturbing one acre or more of soil,<sup>28</sup> a Notice of Intent (NOI) and Storm

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<sup>26</sup> Historically, efforts to prevent water pollution focused on "point" sources, meaning the source of the discharge was from a single location (e.g., a sewage treatment plant, power plant, factory, etc.). More recent efforts are focusing on pollution caused by "non-point" sources, meaning the discharge comes from multiple locations. The best example of this latter category is urban stormwater runoff, the source of which is a myriad of impervious surfaces (e.g., highways, rooftops, parking lots, etc.) that are found in a typical city or town.

<sup>27</sup> California State Water Resources Control Board, "[Total Maximum Daily Load Program](http://www.swrcb.ca.gov/water_issues/programs/tmdl/303d_lists2006_approved.shtml)," [http://www.swrcb.ca.gov/water\\_issues/programs/tmdl/303d\\_lists2006\\_approved.shtml](http://www.swrcb.ca.gov/water_issues/programs/tmdl/303d_lists2006_approved.shtml), viewed November 2, 2010.

<sup>28</sup> Effective July 1, 2010, all dischargers will be required to obtain coverage under the Construction General Permit Order 2009-0009-DWQ adopted on September 2, 2009. Source: State Water Resources Control Board website, updated September 24, 2009, [http://www.swrcb.ca.gov/water\\_issues/programs/stormwater/construction.shtml](http://www.swrcb.ca.gov/water_issues/programs/stormwater/construction.shtml).

Water Pollution Prevention Plan (SWPPP) must be prepared prior to commencement of construction.<sup>29</sup>

Once grading begins, the SWPPP must be kept on-site and updated as needed while construction progresses. The SWPPP details the site-specific Best Management Practices (BMPs) to control erosion and sedimentation and maintain water quality during the construction phase. The SWPPP also contains a summary of the structural and non-structural BMPs to be implemented during the post-construction period, pursuant to the nonpoint source control practices and procedures encouraged by the City of Morgan Hill and the RWQCB.

### **NPDES Municipal Stormwater Permit**

The U.S. Environmental Protection Agency has delegated management of NPDES requirements for municipal urban runoff discharges in California to the State Water Resources Control Board and the nine RWQCB's. The City of Morgan Hill has adopted and prepared a Storm Water Management Plan (SWMP) and been issued the NPDES Small MS4s General Permit by the Central Coast RWQCB [Order Number 2003-0005-DWQ, Waste Discharge Identification Number (WDID#) 3-43MS03020]. The City of Morgan Hill is designated by the EPA as a small MS4, meaning a smaller municipal separate storm sewer systems (small MS4) serving less than 100,000 people. Morgan Hill's previous Small MS4 permit expired in June 2010, and the new regional permit serves as a renewal of the Small MS4 permit for Morgan Hill. The City's SWMP plan outlines a comprehensive five year plan to establish Best Management Practices (BMPs) through six Minimum Control Measures (MCMs) to help reduce the discharge of pollutants into waterways and to protect local water quality caused by storm water and urban run-off within the corporate limits of Morgan Hill.

### **California Green Building Standards (CALGreen) Code**

The 2010 California Green Building Standards (CALGreen) Code is a code with mandatory requirements for new residential and nonresidential buildings throughout California which began on January 1, 2011. Section 5.106.1 of the Code states that newly constructed projects of less than one acre must develop a stormwater soil loss prevention plan that has been designed, specific to its site, conforming to the State Storm water NPDES Construction Permit 99-08-DWQ or local ordinance, whichever is stricter, as is required for projects one acre or more. The plan should cover prevention of soil loss by storm water run-off and/or wind erosion, of sedimentation, and/or of dust/particulate matter air pollution.

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<sup>29</sup> Santa Clara Valley Urban Runoff Pollution Prevention Program, "Stormwater Pollution Control Requirements," updated December 5, 2005.

4.9.2

**Environmental Checklist and Discussion**

HYDROLOGY AND WATER QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
2) 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
6) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
7) 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,13

HYDROLOGY AND WATER QUALITY						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,13
9) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
10) Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

#### 4.9.2.1 *Drainage and Flooding*

Much of the project site is currently undeveloped and covered with pervious surfaces. Compared to existing conditions, future development allowed by the proposed project would substantially increase the amount of impervious surfaces (i.e., buildings, parking lots, and sidewalks) on the site and, as a result, the amount of stormwater runoff generated by the site would increase.

**Impact HYDRO-1:** Future development allowed by the proposed project would substantially increase stormwater runoff generated by the site. **(Significant Impact)**

As described previously, the project site is located in the dam failure inundation areas of Anderson Dam and Chesbro Dam.<sup>30</sup> The precise failure probability of dam failure for Chesbro Dam has not been calculated but the probability is considered extremely remote. The SCVWD is mandated by the state to inspect and report on the condition of dam on an annual basis.

The dams in Santa Clara County are managed by the Santa Clara Valley Water District (SCVWD). The dams are continuously monitored for seepage and settling, and inspected immediately following significant earthquakes. The dams are inspected twice per year in the presence of representatives from the California Division of Safety of Dams and the Federal Energy Regulatory Commission.<sup>31</sup>

The SCVWD recently completed a seismic stability study for Anderson Dam. The seismic analysis determined that the dam may experience significant damage during an earthquake. As a result, the water level at Anderson Reservoir is being kept 25 feet below the spillway until seismic retrofits can

<sup>30</sup> Association of Bay Area Governments. [Dam Failure Inundation Hazard Map for Morgan Hill](http://www.abag.ca.gov/cgi-bin/pickdamx.pl). 1995. <http://www.abag.ca.gov/cgi-bin/pickdamx.pl>

<sup>31</sup> Santa Clara Valley Water District. [http://www.valleywater.org/Water/Where\\_Your\\_Water\\_Comes\\_From/Local\\_Water/Reservoirs/index.shtml](http://www.valleywater.org/Water/Where_Your_Water_Comes_From/Local_Water/Reservoirs/index.shtml). September 15, 2008.



be completed. The seismic retrofits are estimated to be complete by the year 2018.<sup>32</sup> For this reason and those stated above, the likelihood of catastrophic dam failure that would impact the site is considered low.

The site is not subject to seiche or tsunami.

### **Planned Modifications to West Little Llagas Creek**

Modifications to the section of West Little Llagas Creek which runs from west of Watsonville Road downstream where it exits eastward underneath Monterey Road are in the planning stages. These modifications include: 1) grading the creek for approximately 300-feet west of Watsonville Road up to the existing box culvert under Watsonville Road 2) replacement of the current box culvert with a larger double-culvert under the widened road (approximately 100-feet), and 3) construction of a retaining wall along a 90-foot segment of the creek channel. A portion of the existing open creek channel between Watsonville and Monterey Roads on the project site (APN 779-04-001) will be removed to accommodate the new widened road and double-box culvert. The remaining section of open creek channel not being replaced, between Watsonville Road and Monterey Road, would be modified on the north bank to create a permanent vertical wall in-line with the edge of the widened roadway. The south bank will not be graded or modified opposite the retaining wall. The channel will remain open at this location to allow for split flows to continue; a portion going into the culvert under Monterey Road and a portion flowing overland parallel to the south side of Monterey Road.

To the east of Monterey Road, the current double-culvert under Monterey Road would be extended approximately 75-feet and the West Little Llagas Creek channel would be graded and re-contoured for approximately 300-feet.

The improvements along this reach of West Little Llagas Creek would reduce the flooding of Watsonville Road to a less frequent biennial event. Although localized flooding could continue to occur, implementation of the modifications would slightly reduce the frequency of flooding and would not result in a new significant flooding impact.

Providing additional capacity in the culvert under Monterey Road could reduce flooding on the south side of Monterey Road. Additionally, future changes to the West Little Llagas Creek channel upstream of the project site under the planned *Upper Llagas Creek Flood Protection Project* would further improve flooding conditions in the vicinity of the Watsonville Road and Monterey Road intersection by reducing the drainage area of this reach of West Little Llagas Creek. Once an upstream diversion of West Little Llagas Creek is in place, the culverts near the Watsonville/Monterey intersection would then adequately handle 100-year flood flows from the smaller drainage area.

Until these planned modifications are completed, however, the project site is located within the floodplain of West Little Llagas Creek and subject to flooding during the lifetime of buildings constructed on the site.

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<sup>32</sup> Santa Clara Valley Water District. [Anderson Dam Seismic Stability Study](http://www.valleywater.org). July 2011. Website: [www.valleywater.org](http://www.valleywater.org).

**Impact HYDRO-2:** Future development on the project site would be subject to flooding from West Little Llagas Creek. **(Significant Impact)**

#### 4.9.2.2 *Water Quality*

##### **Construction Phase Impacts**

Development resulting from the proposed project and installation of new infrastructure, including grading, demolition, and excavation activities may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across construction sites may contain sediments that are ultimately discharged into the storm drainage system.

##### **Post-Construction Phase Impacts**

Compared to existing conditions, vehicle use and human activity would increase with future development on the project site, and as a result, the amount of pollution carried by runoff could increase. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants such as oil, grease, lead, and animal waste. Runoff from redevelopment in the project areas may contain oil and grease from parked vehicles, as well as sediment and chemicals (i.e., fertilizers, pesticides, etc.) from the landscaped areas or new roof areas. Implementation of the standard measures listed below would ensure that future construction on the project site would result in less than significant water quality impacts.

##### Standard Measures

In accordance with City of Morgan Hill standards, future development shall implement the following measures to avoid construction phase and post-construction water quality impacts:

- Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the Director of Public Works.
  - Storm drain calculations to determine detention pond sizing and operations.
  - Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
  - Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.
- As required by the State Water Resources Control Board (SWRCB) Order No. 99-08-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) package and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with Section A, B, and C of the General Permit prior to the commencement of soil disturbing activities. A NOI

Receipt Letter assigning a Waste Discharger Identification (WDID) number to the construction site will be issued after the SWRCB receives a complete NOI package (original signed NOI application, vicinity map, and permit fee); copies of the NOI Receipt Letter and SWPPP shall be forwarded to the Building and Public Works Department review. SWPPP shall be made a part of the improvement plans.

#### **4.9.2.2      *Program Mitigation and Avoidance Measures***

##### **General Plan and Municipal Code Policies**

Many of the policies in the City's General Plan and Municipal Code were adopted for the purpose of avoiding or mitigating potential environmental effects that could result from planned development within the City. All future development would be subject to General Plan and Municipal Code policies, including the following, which will reduce or avoid hydrology and water quality impacts:

- *Sewer Capacity, Water Supply and Storm Drainage Policy 22b* – Residents Served by Local Drainage Facilities Should Pay for their Construction and Maintenance
- *Sewer Capacity, Water Supply and Storm Drainage Action 22.2* – Developers Mitigate Drainage Impacts
- *Sewer Capacity, Water Supply and Storm Drainage Action 22.4* – Requires Storm Water Management Plan for Proposed Development
- *Sewer Capacity, Water Supply and Storm Drainage Action 22.6* - Requires Developers to Mitigate Drainage Impacts and Protect Groundwater Quality
- *Sewer Capacity, Water Supply and Storm Drainage Action 22.8* – Compatibility of Detention and Retention Provided with Storm Drainage System Capacity
- *Flood Control Policy 4a* – Prepare for impacts associated with potential failure of Anderson Dam.
- *Flood Control Policy 4b* – Prohibit Development in Floodways & Regulate in Floodplains
- *Flood Control Policy 4e* – Leave Streamside and Riparian Areas in Natural State
- *Flood Control Policy 4h* – Development Should Minimize Off-site Flooding/Drainage Problems
- *Flood Control Policy 4j* – Fund Flood Control Facilities Locally in Absence of Federal/State Funds
- *Flood Control Policy 4k* – Mitigate Flood-Inducing Impacts of New Development
- *Flood Control Policy 4l* – Floodproof Development at Developers' Expense (SCJAP 12.05)
- *Flood Control Policy 4m* – Pad Up Structures In Appropriate Situations

- *Flood Control Policy 4o* – Limit Runoff to Pre-development Levels
- *Flood Control Policy 4p* – Require careful consideration of the cumulative effects of development which would drain into the upper reaches of Llagas Creek and other creeks, in order to avoid the need for channelization and consequent destruction of its riparian vegetation and natural habitat. (SCJAP 12.09)
- *Flood Control Action 4.2* – Designate Floodways as Open Space & Prohibiting Construction
- *Flood Control Action 4.4* – Project Review by Santa Clara Valley Water District Prior to City Approval
- *Flood Control Action 4.6* – Require Dedication of Floodway and Floodplain Areas Pursuant to the PL566 Drainage Program
- *Water Quality Policy 5a* – Protect water quality from contamination, and monitor it to assure the present policies and regulations are adequate. Prohibit such uses as waste facilities, septic systems, and industries using toxic chemicals whereby polluting substances may come in contact with groundwater, floodwaters, and creeks, or reservoir waters. (SCJAP 8.00)
- *MHMC Chapter 17.32 Improvement and Improvement Agreements*
- *MHMC Chapter 18.42 Flood Damage Prevention*
- *MHMC Chapter 3.56 Storm Drainage Impact Fee*

#### 4.9.4 Conclusion

Implementation of standard measures and program mitigation and avoidance measures will reduce hydrology and water quality impacts to a less than significant level. **(Less than Significant Impact with Mitigation)**

## **4.10 LAND USE**

### **4.10.1 Existing Setting**

#### **4.10.1.1 *Watsonville-Royal Oaks***

The Watsonville-Royal Oaks site includes six parcels (779-04-001, 779-04-003, 779-04-004, 779-04-052, 779-04-056, and 779-04-067) totaling 17.34 acres, all of which are outside the City limit. The site is currently developed with a mushroom processing facility. The remainder of the site is vacant land. A portion of the site is vacant land owned by Santa Clara Valley Water District for flood control purposes.

Five of the six parcels have a General Plan designation of *Single Family Medium*, while the parcel on which the SCVWD easement is located (779-04-067) is designated as *Open Space*. All six parcels are unincorporated and are currently zoned as *Agricultural (A-20 Ac)* by Santa Clara County.

#### **4.10.1.2 *Monterey-City of Morgan Hill***

The second project site includes nine parcels (779-04-005, 779-04-010, 779-04-015, 779-04-030, 779-04-032, 779-04-033, 779-04-074, 779-04-072, and 779-04-073) on 40.57 acres, of which seven parcels are located within the City limit. The site is currently developed with the Oakwood Country School (private), two single family residences, and a few small businesses.

Seven of the nine parcels have a General Plan designation of *Single Family Medium*, and are zoned as *RE(100,000)*, which is a single family zoning district. The two remaining parcels (779-04-010 and 779-04-015) are designated as *Single Family Low*, and are zoned as *Agricultural (A-20 Ac)* by Santa Clara County.

#### **4.10.1.3 *Monterey-Morgan Hill Bible Church***

The Monterey-Morgan Hill Bible Church project site includes two parcels (779-04-016 and 779-04-061) totaling 9.48 acres outside the City limit. The site is currently developed with the Morgan Hill Bible Church facility, including surface parking, a sports field, baseball diamond, and volleyball courts.

The two parcels on the site have a General Plan designation of *Single Family Low*, and are zoned as *Agricultural (A-20 Ac)* by Santa Clara County.

#### **4.10.1.4 *Surrounding Land Uses***

The project site is located in a commercial, residential and agricultural area of incorporated and unincorporated Morgan Hill. A mix of agricultural properties, a mobile home community, and a hotel are located north of the site across Monterey Road. Undeveloped vacant fields are located west and northwest of the site, west of the intersection of Monterey Road and Watsonville Road. Single-family residential neighborhoods and a SCVWD channel are also located west of the site. A mix of single-family residences, agricultural buildings and agricultural fields are located south of the site, with the continuation of the planned SCVWD channel present on APN 779-04-067 extending off-site along the southern boundary. Agricultural fields are located east of the site.

**4.10.2 Environmental Checklist and Discussion**

LAND USE						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
2) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,6

**4.10.2.1 Overview of Land Use Compatibility**

Land use conflicts can arise from two basic causes: 1) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere; or 2) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project. Both these circumstances are aspects of land use compatibility. Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project’s design or scope. Depending on the nature of the impact and its severity, land use compatibility conflicts can range from minor irritations and nuisance to potentially significant effects on human health and safety.

The discussion below distinguishes between impacts that could result from the proposed project upon persons and the physical environment, and potential impacts from the project’s surroundings upon the uses proposed by the project.

**4.10.2.2 Impacts from the Proposed Project**

As previously discussed, the project site is surrounded by residential, commercial, and agricultural land uses. Land use compatibility for each of the three sub-areas within the project site is discussed below.

**Watsonville-Royal Oaks**

A General Plan Amendment (GPA) is proposed on four of the site’s six parcels (779-04-001, 779-04-003, 779-04-004, and 779-06-056) from *Single Family Medium (SFM)* to *Non-Retail Commercial*, with rezoning to *Light Commercial-Residential (CL-R)* from *County Agriculture (A-20Ac)*. On one



of the remaining parcels (779-04-052), a GPA from *Single Family Medium (SFM)* to *Multi-Family Medium (MFM)*, and rezoning to *Medium-Density Residential (R3)/Planned Development (PD)* from *Agriculture (A-20Ac)* is proposed. The remaining parcel (779-04-067) is the Santa Clara Valley Water District (SCVWD) property and will be rezoned to *Open Space (OS)* from *Agriculture (A-20Ac)* to allow for consistency with the General Plan *Open Space (OS)* designation.

Anticipated development on the 17.34 acre site would include 100 multi-family units, 180 senior units, and 6,000 square feet of retail space. This future development would represent a conversion of a site currently occupied by a mushroom processing facility to residential and retail uses. The proposed residential and mixed use land use designations and zoning districts would be compatible with the surrounding residential and commercial uses in the project area. It is not anticipated that the proposed residential and commercial uses would result in substantial land use conflicts with surrounding uses due to noise or visual intrusion. Future development on the site would not physically divide an established community, nor would it conflict with any applicable plans, policies, or regulations.

The site is adjacent to farmland at the APN 779-04-052 parcel, which is planned to be developed with a senior assisted living facility. The farmland, which borders the southern portion of this parcel, is also adjacent to urban residential development across Watsonville Road to the west. The future development of a senior assisted living facility, therefore, would not represent a substantial change in the urban/agricultural interface that currently exists in the site vicinity. The remainder of the project site is separated from other farmland by the SCVWD parcel (779-04-067). For these reasons, the project would not result in conflicts with nearby agricultural uses.

### **Monterey-City of Morgan Hill**

On six of the site's nine parcels (779-04-005, 779-04-030, 779-04-032, 779-04-033, 779-04-074, and 779-04-072) a GPA from *Single Family Medium (SFM)* to *Non-Retail Commercial*, and rezoning to *Light Commercial-Residential (CL-R)* from *RE (100,000)* is proposed. A GPA from *Single Family Low (SFL)* to *Non-Retail Commercial*, and a rezoning to *Light Commercial-Residential (CL-R)* from *County Agriculture (A-20Ac)* is proposed on two of the parcels (779-04-010 and 779-04-015). The Oakwood Country School is located on the remaining parcel (779-04-073). The City of Morgan Hill GP designation (*Single Family Medium (SFM)*) will remain the same on the school site, but a zoning change from *RE(100,000)* to *Single Family District R1(9,000)* is proposed. The purpose of rezoning the school site is to have the zoning district in conformance with the General Plan land use designation for the site, but it will not authorize any additional development that cannot already occur under the current zoning and approved Use Permit, the effects of which have been previously analyzed in an Initial Study/Mitigated Negative Declaration, available at the Morgan Hill Community Development Agency, and are incorporated herein by reference.

For the purposes of this Initial Study, anticipated development on the 15.98 acres of the site not occupied by the Oakwood Country School would include 64,600 square feet of commercial and personal services, 19,400 square feet of extensive retail, 11,000 square feet of office, and 60 multi-family dwelling units. While the future development would add more dense residential and more intense commercial uses than currently exist on the site, the proposed uses would be compatible with existing residential and commercial uses in the project area. It is not anticipated that the proposed residential and commercial uses would result in substantial land use conflicts with surrounding uses

due to noise or visual intrusion. Future development on the site would not physically divide an established community, nor would it conflict with any applicable plans, policies, or regulations.

### **Monterey-Morgan Hill Bible Church**

The project proposes a GPA from *Single Family Low (SFL)* to *Public Facility (PF)*, and rezoning to *Public Facility (PF)* from *County Agriculture (A-20Ac)*. The proposed GPA from *Single Family Low (SFL)* to *Public Facility (PF)* is intended to bring the existing Morgan Hill Bible Church facility into conformance with the General Plan land use designation, and accommodate future growth of the church. Anticipated future development would include redeveloping the existing 11,600 square foot (s.f.) church and classrooms with approximately 20,000 s.f. of the same use. The church is a conditional use under the *Public Facilities District* and would maintain consistency with the proposed General Plan Amendment for the site. Because the land use on the site would not change as a result of the project, it is not anticipated that the proposed expansion of the church facility would result in substantial land use conflicts with surrounding uses due to noise or visual intrusion.

The site is adjacent to farmland at the APN 779-04-061 parcel, which is the site of the Morgan Hill Bible Church, the use of which would remain the same. The potential expansion of the church is not by itself anticipated to cause additional or new conflicts with agricultural operations in the area.

#### **4.10.2.3      *Impacts to the Proposed Project***

Single family residences are considered sensitive receptors. The project site is located adjacent to two major roadways (Watsonville Road and Monterey Road). Noise levels at the project site can be expected to be high. Section 4.11 Noise, of this Initial Study, discusses the noise impacts of the roadways in greater detail and provides measures to reduce these impacts to a less than significant level.

#### **4.10.2.4      *Draft Habitat Conservation Plan***

Currently there is no adopted Habitat Conservation Plan that covers the study area. Six local partners (the County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, and the Cities of San Jose, Gilroy and Morgan Hill) and three wildlife agencies (the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service) are in the process of designing a multi-species habitat conservation plan. The study area of the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) primarily covers southern Santa Clara County, which includes the City of San Jose with the exception of the bayland areas. The HCP/NCCP will address listed species and species that are likely to become listed during the plan's 50-year permit term. The covered species include, but are not limited to, western burrowing owl, California tiger salamander, and California red-legged frog. The (HCP/NCCP) Planning Agreement requires that the agencies comment on reportable interim projects and recommend mitigation measures or project alternatives that would help achieve the preliminary conservation objectives and not preclude important conservation planning options or connectivity between areas of high habitat value.

#### 4.10.2.5 *Program Mitigation and Avoidance Measures*

##### **General Plan and Municipal Code Policies and Standards**

Various City policies and standards included in the General Plan and Municipal Code (MHMC) have been adopted for the purpose of avoiding or mitigating potential environmental effects that could result from planned development within the City. All future development would be subject to following General Plan policies and standards related to land use:

- *Incompatible Uses Policy 6a* – Avoid development in areas of natural hazards such as landslide and flood prone areas.
- *Incompatible Uses Policy 6b* - Encourage the clustering of residential units to provide open space and recreation areas, and to provide buffer areas between different land uses (e.g. industrial and residential).
- *Incompatible Uses Policy 6c* – Evaluate potential impacts of development projects on adjacent uses in initial environmental assessments and EIRs.
- *Incompatible Uses Action 6.1* - Use setbacks, natural and man-made barriers such as streams, park land, and drainage ways, and other mitigation to separate incompatible uses whenever possible.
- *Neighborhoods Policy 8a* – Maintain distinct boundaries between commercial uses and residential neighborhood. (This does not preclude residential uses within commercial areas as part of mixed-use projects, or in designated mixed use areas.)
- *Neighborhoods Policy 8e* – Design residential neighborhoods so they are distinct and separated from conflicting non-residential uses.
- *Conservation Action 7.8* – Require litter control considerations in all commercial development.
- *Edges Policy 15d* – Feathering from higher urban densities to lower rural densities should occur within the city limits. Feathering should begin as development nears the Urban Limit Line.
- *Noise Policy 7c* – Appropriate interior noise levels in commercial and industrial structures are a function of the use of the space and should be evaluated on a case-by-case basis.
- *MHMC Chapter 8.28 Noise*
- *MHMC Chapter 18.42 Flood Damage Prevention*
- *MHMC Chapter 18.48 Performance Standards*
- *MHMC Chapter 18.74 Design Review*

**4.10.3            Conclusion**

Implementation of the proposed project would not result in significant land use impacts. **(Less Than Significant Impact)**

**4.11 MINERAL RESOURCES**

**4.11.1 Setting**

The City of Morgan Hill is a developed urban area. Mineral exploration is not performed on the project site and the site does not contain any known or designated mineral resources.

**4.11.2 Environmental Checklist and Discussion**

MINERAL RESOURCES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

The proposed project would not result in the loss of availability of a known mineral resource, and no mineral excavation sites are present within the project area. The proposed project, therefore, would not result in impacts to mineral resources.

**4.11.3 Conclusion**

The proposed project would not result in the loss of availability of known mineral resources. **(No Impact)**

## 4.12 NOISE

### 4.12.1 Setting

#### 4.12.1.1 *Noise Background*

Noise is defined as unwanted sound. Noise can be disturbing or annoying because of its pitch or loudness. Pitch refers to relative frequency of vibrations, higher pitch signals sound louder to people.

A decibel (dB) is measured based on the relative amplitude of a sound. Ten on the decibel scale marks the lowest sound level that a healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis such that each 10 decibel increase is perceived as a doubling of loudness. The California A-weighted sound level, or dBA, gives greater weight to sounds to which the human ear is most sensitive.

Sensitivity to noise increases during the evening and at night because excessive noise interferes with the ability to sleep. Twenty-four hour descriptors have been developed that emphasize quiet-time noise events. The Day/Night Average Sound Level, DNL, is a measure of the cumulative noise exposure in a community. It includes a 10 dB addition to noise levels from 10:00 P.M. to 7:00 A.M. to account for human sensitivity to night noise.

The primary source of noise in the project area is traffic on Monterey and Watsonville Roads. Based on the City of Morgan Hill General Plan, the year 2025 projected noise levels on Monterey Road and Watsonville Road are 70 Ldn dBA. The 70 Ldn dBA noise contour extends onto the portions of the project site that are directly adjacent to these roadways. The 65 Ldn dBA noise contour extends slightly further into the interior of the site, away from the roadways. The 60 Ldn dBA contour extends onto the site even further from the roadways (roughly 400 feet from Watsonville Road, 265 feet from Monterey Road, and 660 feet from the intersection of Monterey and Watsonville Roads), leaving the rest of the site within the 60 Ldn dBA noise contour.

#### **Morgan Hill Noise Standards**

The City of Morgan Hill General Plan Acceptable Noise Levels standards state that the normally acceptable interior noise level for residential uses is 45 dBA  $L_{dn}$ . General Plan Policy 7a states that noise levels in new residential development exposed to an exterior  $L_{dn}$  of 60 dBA or greater should be limited to maximum instantaneous noise levels (e.g., trucks on busy streets, train warning whistles) in bedrooms of 50 dBA. Maximum instantaneous noise levels in all other habitable rooms should not exceed 55 dBA. The City's standards for acceptable exterior noise levels are 60 dBA  $L_{dn}$  in single-family residential use areas and 70 dBA  $L_{dn}$  for playgrounds, neighborhood parks, agriculture and several types of outdoor recreation. General Plan Policy 7a also states that 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, an  $L_{dn}$  of 65 dBA may be permitted. In some cases, noise levels up to 75 dBA  $L_{dn}$  may be acceptable for agriculture and outdoor recreation (such as golf courses and riding stables).



**4.12.2 Environmental Checklist and Discussion**

NOISE						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project result in:						
1) 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
5) 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 expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

**4.12.1.1 Noise Impacts to the Project**

**Interior Noise**

The State of California Building Code and the City of Morgan Hill require that interior noise levels within new residential units not exceed 45 dBA L<sub>dn</sub>. The necessary attenuation required for future residential development to meet the 45 dBA L<sub>dn</sub> interior noise standard would require the practical application of best available noise control methods such as stucco sided, staggered stud walls, high performance windows, and individual heating and cooling systems so that windows may be kept closed to control noise. Large windows and doors also should be oriented away from roadways where possible.

## Exterior Noise Levels

The City of Morgan Hill General Plan Acceptable Noise Levels standards state that the normally acceptable noise level for single family residential areas is up to 60 Ldn dBA, and the conditionally acceptable noise levels are 55-70 Ldn dBA. The proposed project, therefore, could expose people to noise levels in excess of the acceptable noise standard established in the General Plan if residential development were to occur within roughly 400 feet of Watsonville Road, 265 feet of Monterey Road, or 660 feet of the intersection of Monterey and Watsonville Roads.

**Impact NOI-1:** Future residential development on the project site would potentially be exposed to exterior noise levels exceeding 60 dBA L<sub>dn</sub> from traffic noise. Exterior noise levels exceeding the acceptable General Plan standards would result in significant impacts to outdoor spaces in new residential development. **(Significant Impact)**

At the time when specific development is proposed on the project site, acoustical studies shall be prepared to ensure that indoor and outdoor noise levels will not exceed the General Plan noise criteria.

### 4.12.1.2 *Noise Impacts from the Project*

#### **Future Short-Term Construction Impacts**

Construction activities generate considerable amounts of noise. Future construction of single family residences could result in short term noise impacts. Construction-related noise levels are normally highest during the site preparation phase and during the construction of infrastructure. Typical hourly average construction generated noise levels are about 81 dBA to 88 dBA measured at a distance of 50 feet during busy construction periods (e.g., earth moving equipment etc.). Construction-related noise levels are normally less during building erection, finishing, and landscaping phases.

**Impact NOI-2:** Future construction on the project site could result in short term noise impacts. **(Significant Impact)**

#### **Vehicular Traffic**

Vehicular traffic to and from the project vicinity would increase compared to existing conditions. This in turn would incrementally increase traffic noise in the project vicinity. Traffic volumes must double to result in a perceptible noise level increase. As stated in *Section 4.16 Transportation*, the proposed project is estimated to generate a total of 5,438 trips per day on nearby roadways, which would not double roadway volumes on local roadways and, therefore, not result in a perceptible noise level increase to sensitive receptors.

#### 4.12.1.3 *Program Mitigation and Avoidance Measures*

##### **General Plan and Municipal Code Policies**

Many of the policies in the City's General Plan and Municipal Code were adopted for the purpose of avoiding or mitigating potential environmental effects that could result from planned development within the City. All future development would be subject to General Plan and Municipal Code policies, including the following, which will reduce or avoid noise and vibration impacts:

- *Public Health and Safety Policy 7a* - New development projects shall be designated and constructed to meet acceptable exterior noise level standards, as follows:
  - The maximum exterior noise level of 60 dBA  $L_{dn}$  shall be applied in residential areas where outdoor noise is a major consideration (e.g., backyards in single family housing developments and recreation areas in multi-family housing projects.) 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, an  $L_{dn}$  of 65 dBA may be permitted.
  - Indoor noise levels should not exceed an  $L_{dn}$  of 45 dBA in new residential housing units.
  - Noise levels in a new residential development exposed to an exterior  $L_{dn}$  of 60 dBA or greater should be limited to a maximum instantaneous noise level (e.g., trucks on busy streets, train warning whistles) in bedrooms of 50 dBA. Maximum instantaneous noise levels in all other habitable rooms should not exceed 55 dBA. The maximum outdoor noise level for new residences near the railroad shall be 70 dBA  $L_{dn}$ , recognizing that train noise is characterized by relatively few loud events.
- *Public Health and Safety Policy 7b* - The impact of a proposed development project on existing land uses should be evaluated in terms of the potential for adverse community response based on significant increase in existing noise levels, regardless of compatibility guidelines.
- *Public Health and Safety Policy 7e* - Noise level increases resulting from traffic associated with new projects shall be considered significant if: a) the noise level increase is 5 dBA  $L_{dn}$  or greater, with a future noise level of less than 60 dBA  $L_{dn}$ , or b) the noise level increase is 3 dBA  $L_{dn}$  or greater, with a future noise level of 60 dBA  $L_{dn}$  or greater.
- *Public Health and Safety Policy 7f* - Noise levels produced by stationary noise sources associated with new projects shall be considered significant if they substantially exceed ambient noise levels.
- *Community Development Action 12.2* - In requiring noise impact mitigation of new and/or expanded development, the City shall promote the use of techniques less visually disturbing than sound walls-including but not limited to earthen berms and intervening placement of non-sensitive buildings.

- *MHMC Chapter 8.28.040* - Prohibits construction activities between the hours of 8:00 PM and 7:00 AM, Monday through Friday and between the hours of 6:00 PM and 9:00 AM on Saturday. Construction activities may not occur on Sundays or federal holidays.
- *MHMC Chapter 18.48.075 Noise* - At the lot line of all uses specified in Section 18.48.010, the maximum sound generated by any use shall not exceed seventy to seventy-five db(A) when adjacent uses are industrial or wholesale uses. When adjacent to offices, retail or sensitive industries, the sound level shall be limited to sixty-five to seventy db(A). When uses are adjacent or contiguous to residential, park or institutional uses, the maximum sound level shall not exceed sixty db(A). Excluded from these standards are occasional sounds generated by the movement of railroad equipment, temporary construction activities, or warning devices.

### **2010 California Building Code**

Multi-family housing (including congregate care) in the State of California is subject to the environmental noise limits set forth in the 2010 California Building Code. Per the 2010 California Building Code, the maximum interior noise level limit is a of 45 dBA  $L_{dn}$ . Where exterior noise levels exceed 60 dBA  $L_{dn}$ , a report must be submitted to the City with the building plans describing the noise control measures that have been incorporated into the design of the project to meet the noise limit.

#### **4.12.4      Mitigation and Avoidance Measures to be Considered at the Time of Future Development**

##### **Noise Levels**

**MM NOI-1:** At the time when specific development is proposed on the project site, acoustical studies shall be prepared to ensure that indoor and outdoor noise levels will not exceed the General Plan noise criteria.

#### **4.12.5      Conclusion**

Conformance with the program mitigation measures would avoid or reduce noise impacts to a less than significant level. **(Less than Significant Impact with Mitigation)**

**4.13 POPULATION AND HOUSING**

**4.13.1 Setting**

According to California Department of Finance 2011 estimates, Morgan Hill’s population is 38,309, with 3.10 persons per household.<sup>33</sup> The Association of Bay Area Governments (ABAG) projects the population for Morgan Hill to be 51,700 in 2030.<sup>34</sup>

As part of the General Plan, residential development within the City of Morgan Hill is controlled by the Residential Development Control System (RDCS). By approving Measure C in 2004 and Measure F in 2006, Morgan Hill voters extended the City’s RDCS to 2020. The RDCS establishes a population ceiling for the City of 48,000 as of January 1, 2020.

Morgan Hill currently has a significant portion of its workforce traveling outside the City for employment. Increasing jobs in the City would help to alleviate peak hour traffic by eliminating the need for workers to commute from Morgan Hill to employment centers in northern Santa Clara County.

**4.13.2 Environmental Checklist and Discussion**

POPULATION AND HOUSING						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

<sup>33</sup> E-5 Population and Housing Estimates for Cities, Counties and the State, 2010-2011, with 2010 Benchmark. California Department of Finance. Web. 20 Sept. 2011.

<<http://www.dof.ca.gov/research/demographic/reports/estimates/e-5/2011-20/view.php>>

<sup>34</sup> Association of Bay Area Governments. Projections 2007: Forecasts for the San Francisco Bay Area to the Year 2030. December 2006.

#### **4.13.2.1      *Population and Housing***

Based on an average of 3.10 persons per household, implementation of the proposed General Plan amendments and rezoning/rezoning, allowing for up to 160 multi-family units, could generate up to approximately 496 new residents in those units. Additionally, the anticipated development of 180 senior assisted living facility units could generate up to 236 residents<sup>35</sup>, for a total of 732 future residents on the site. Based on the employee density factors used in the Morgan Hill Traffic Model and Growth Projections, the future development of 64,600 square feet of commercial and personal services, 25,400 square feet of retail uses, and 11,000 square feet of office could result in a total of 278 jobs on the site.

As previously discussed, the rate of residential growth in Morgan Hill is controlled by the City's Residential Development Control System that limits new residences in the City to approximately 250 units per year. The RDCS process ensures that residential growth throughout the City is consistent with available capacity at public facilities (i.e. schools, parks, roadways, utilities, etc.). The proposed project would not alter the annual allotted population growth rate. The RDCS allocation for development has been determined through 2011.

Future development on the project site could displace existing residents. Approximately five residences, including four single family homes and one multi-family residence, are located on the site adjacent to Monterey Road. The City of Morgan Hill has recognized that development of existing housing sites can cause hardship to residents. The City has applied measures as standard conditions of approval where residents will be displaced. The proposed project would not result in impacts related to population growth, and implementation of standard measures would ensure that substantial numbers of housing units or people are not displaced without the provision of replacement housing assistance.

The project is not expected to create pressure for additional unplanned development outside the Urban Service Area and Urban Growth Boundary, nor would it require infrastructure extension that would induce unplanned growth.

#### **4.13.2      *Program Mitigation and Avoidance Measures***

##### **General Plan and Municipal Code Policies**

Many of the policies in the City's General Plan and Municipal Code were adopted for the purpose of avoiding or mitigating potential environmental effects that could result from planned development within the City. All future development would be subject to General Plan and Municipal Code policies, including the following, which will reduce or avoid population and housing impacts:

- *Jobs and Housing Policy 2c* – Balance Job & Housing Supplies (SCJAP 3.00)
- *Jobs and Housing Policy 2d* – Attain/Maintain a Balance of Jobs & Housing Through Land Use Controls (SCJAP 3.01)

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<sup>35</sup> Energystar.gov. [Space Use Information – Senior Care Facility](https://www.energystar.gov/istar/pmpam/help/Space_Use_Information_-_Senior_Care_Facility.htm). Accessed September 8, 2011.  
[https://www.energystar.gov/istar/pmpam/help/Space\\_Use\\_Information\\_-\\_Senior\\_Care\\_Facility.htm](https://www.energystar.gov/istar/pmpam/help/Space_Use_Information_-_Senior_Care_Facility.htm)



- *MHMC Chapter 15.30.050-Assistance to be provided--Residential units replaced with new residential units.*

#### **4.13.4            Conclusion**

The proposed project would not result in substantial impacts on population and housing in the City or region. **(Less Than Significant Impact)**

## **4.14 PUBLIC SERVICES**

### **4.14.1 Setting**

#### **4.14.1.1 *Fire Service***

The City of Morgan Hill contracts for fire and emergency medical services with the Santa Clara County Fire Department. The City is served by the following two County fire stations: 1) El Toro Fire Station, located at 18300 Old Monterey Road, and 2) Dunne Hill Fire Station, located at 2100 East Dunne Avenue. It is the Fire Department's goal for a total response time to calls of seven minutes.<sup>36</sup> The City is also served under a mutual aid agreement by the California Department of Forestry and Fire Protection (CDF). The CDF Station is located at 15670 South Monterey Road.

#### **4.14.1.2 *Police Service***

Police service is provided to the site by the City of Morgan Hill Police Department. The headquarters of the Morgan Hill Police Department is located at 16200 Vineyard Boulevard. The department currently employs 38 sworn officer positions and 23.5 non-sworn support positions. The Police Department's goal is to respond to Priority One calls within five minutes and Priority Two calls within 10 minutes. Priority One calls are reports of a crime in progress or where an injury has occurred and Priority Two calls are reports on felonies and other major calls.

#### **4.14.1.3 *Schools***

The project site is located within the Morgan Hill Unified School District. The Morgan Hill Unified School District is comprised of 14 schools: nine elementary, two middle, two high schools, a continuation high school, and a community adult school, as well as a Home Schooling Program.

The nearest public elementary school to the project site is Paradise Valley Elementary School, located at 1400 La Crosse Drive, roughly one mile west of the site. The nearest public middle school is Lewis H. Britton Middle School, located at 80 West Central Avenue, roughly two miles northwest of the site. The nearest public high school to the site is Live Oak High School, located at 1505 East Main Avenue, roughly 3.5 miles north of the site.

The Oakwood Country School, a private K-12 school, is located on the project site (APN 779-04-073).

#### **4.14.1.4 *Parks***

The City of Morgan Hill currently owns about 200 acres of public parkland. The City maintains two community parks, five neighborhood parks, two neighborhood/school parks, and 15 mini-parks, in addition to its public trail system and open space.<sup>37</sup> The closest park to the project site is Paradise Park, located at the corner of La Crosse Drive and Calle Enrique, less than one mile west of the site.

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<sup>36</sup> City of Morgan Hill. Fire and Emergency Medical Services Master Plan Update. 2002. <http://www.morgan-hill.ca.gov/Upload/Document/D240005203/2002%20Fire%20&%20EMS%20Svcs%20Master%20Plan%20Study%20Part%201.pdf>

<sup>37</sup> Rymer, Steve. Director of Recreation and Community Services, City of Morgan Hill. Email Communication September 20, 2011.

The City also owns and operates special use facilities for recreational purposes. These facilities include the Morgan Hill Aquatics Center, Community and Cultural Center, the Centennial Recreation Center, the 40 acre Outdoor Sports Center, and skateboard/bmx park. Many sports leagues and teams use Morgan Hill School District facilities after school hours and on weekends. These facilities include 12 baseball/softball fields, two football fields, two tracks, and four swimming pools.

Morgan Hill residents also utilize county and state parks. These parks include Silveira Park at the southern end of the City, the Coyote Creek park chain to the north, and Henry Coe State Park to the east.

**4.14.2 Environmental Checklist and Discussion**

PUBLIC SERVICES						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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 public services:						
Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1

**4.14.2.1 Fire and Police Service**

Future development on the project site would be constructed in conformance with current codes, including features that would reduce potential fire hazards. Project design would be reviewed by both the Santa Clara County Fire Department and the Morgan Hill Police Department to ensure that it incorporates appropriate safety features to reduce fire hazards and criminal activity.

As future projects are developed they will incrementally increase the demand for fire and police protection, but are not expected to require construction or expansion of fire or police facilities.

#### **4.14.2.2 Schools**

State Law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect on the adequacy of school facilities is payment of a school impact fee prior to issuance of a building permit. The school district is responsible for implementing the specific methods for mitigating school effects under the Government Code. The school impact fees and the school district's methods of implementing measures specified by the Government Code 65996 will serve to offset project-related increase in student enrollment. This would reduce a future development project's impacts to schools to a less than significant level.

The proposed project would add additional residents to the project area, and therefore, would increase the demand for local schools. Using the Morgan Hill Unified School District's student generation rate of 0.4102 students<sup>38</sup> per new multi-family housing unit, the maximum number of students under the proposed General Plan Amendments and prezonings/rezonings would be approximately 66 students. The Morgan Hill School District will review future development projects for each site during the RDCS process and, at that time, will determine whether existing school facilities are adequate to serve the proposed project.

#### **4.14.2.3 Parks**

The proposed project would generate additional residents in the City of Morgan Hill. In providing a private park/open space for future residents, a future development could lessen the project's impact on public park facilities. However, the development of private parkland does not satisfy the City's goal of providing public parkland.

The City of Morgan Hill has adopted a parkland dedication/park land in-lieu fee ordinance (Municipal Code Chapter 17.28) that requires parkland dedication or in-lieu fees for residential developments. This ordinance requires residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. The acreage of parkland or amount of the in-lieu fee required is based upon criteria outlined in Chapter 17.28 of the City's Municipal Code. Future projects will be required to comply with the City's parkland dedication or in-lieu fees for residential developments, which will avoid significant impacts to the City's park facilities.

#### **4.14.2.4 Program Mitigation and Avoidance Measures**

##### **General Plan Policies**

Many of the policies in the City's General Plan were adopted for the purpose of avoiding or mitigating environmental effects that could result from development planned within the City. All future development is subject to General Plan policies, including the following, which will reduce or avoid public services impacts:

- *Services Policy 16a* – Maintain high standards of siting and design in the development of City facilities (e.g., parks, City offices, fire stations).

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<sup>38</sup> Anessa Pasillas, Supervisor of Maintenance, Morgan Hill Unified School District. E-mail: *RE: Student Generation Rates*. July 28, 2011.

- *Services Policy 16c* – Identify public facility and service needs, and coordinate their development to minimize costs and support achievement of community goals. (SCJAP 5.00)
- *Public Safety Policy 17a* – Ensure police and fire staffing and facilities as necessary to provide adequate public safety protection.
- *Public Safety Policy 17b* – Promote police and fire security considerations in all structures by ensuring that crime and fire prevention concepts are considered in development and design.
- *Parks and Recreation Policy 18a* – Recreational facilities and programs shall meet the needs of all Morgan Hill residents, including seniors, youth, and citizens with disabilities.
- *Parks and Recreation Policy 18h* – Parks and recreational facilities shall be designed to primarily meet community needs. Regional need may be a consideration in the planning and design of recreation facilities if there are long-term operations and maintenance benefits (such as facilities where regional tournaments may help off-set long-term operations costs) and/or meet other General Plan goals (such as economic development). Facilities that may meet regional needs shall be located and designed in such a way to minimize impact on residential neighborhoods.
- *Parks and Recreation Policy 18i* – Incorporate emergency services (fire and police) into the design review process for new parks, recreation facilities, and trails.
- *Parks and Recreation Policy 18q* – Continue to require park acquisition and development fees and/or land dedication to support the acquisition and development of parks, trails and other recreation facilities.
- *Parks and Recreation Policy 18r* – Actively pursue additional funding sources and mechanisms to support acquisition, development, and long term operations of parks, trails, facilities and recreation programs.
- *Parks and Recreation Policy 18s* – Parks and recreational facilities shall be maintained to consistent and established standards. Maintenance standards and performance shall be regularly evaluated.

### **Standard Measures (Laws and Regulations)**

Future residences would be constructed in conformance with current building and fire codes, including features that would reduce potential fire hazards. Future project designs would be reviewed by both the Santa Clara County Fire Department and the Morgan Hill Police Department to ensure that it incorporates appropriate safety features to reduce fire hazards and criminal activity.

State Law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect on the adequacy of school facilities is payment of a school impact fee prior to issuance of a building permit. The school impact fees implementation of measures specified in Government Code 65996 would be used to offset project-related increase in student enrollment. Future development projects would be required to comply with the school impact fee requirements of the Morgan Hill Unified School District.

The City of Morgan Hill has adopted a parkland dedication/park land in-lieu fee ordinance (Municipal Code Chapter 17.28) that requires parkland dedication or in-lieu fees for residential developments. This ordinance requires residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. The acreage of parkland or amount of the in-lieu fee required is based upon criteria outlined in Chapter 17.28 of the City's Municipal Code. Future projects will be required to comply with the City's parkland dedication or in-lieu fees for residential developments, which will avoid significant impacts to the City's park facilities.

#### **4.14.4            Conclusion**

Future development resulting from the proposed project would incrementally increase demand for public services and facilities. Implementation of existing programs, including school and parkland in-lieu fees, would reduce or avoid significant impacts to public facilities. **(Less Than Significant Impact)**



**4.15 RECREATION**

**4.15.1 Setting**

The City of Morgan Hill currently owns about 200 acres of public parkland. The City maintains two community parks, five neighborhood parks, two neighborhood/school parks, and 15 mini-parks, in addition to its public trail system and open space.<sup>39</sup>

The City also owns and operates special use facilities for recreational purposes. These facilities include the Morgan Hill Aquatics Center, Community and Cultural Center, the Centennial Recreation Center, the 40 acre Outdoor Sports Center, and skateboard/bmx park. Many sports leagues and teams use Morgan Hill School District facilities after school hours and on weekends. These facilities include 12 baseball/softball fields, two football fields, two tracks, and four swimming pools.

The City’s General Plan has a parks and recreation goal to provide useful, accessible and high-quality park, recreation and trail facilities programs. Morgan Hill’s recommended standard for parkland is five acres per 1,000 population. The City’s current population is 38,309; therefore, the approximately 200 acres of public parking currently owned by the City exceeds the five acres of parking per 1,000 population standard.

The closest park to the project site is Paradise Park, located at the corner of La Crosse Drive and Calle Enrique, less than one mile west of the site.

**4.15.2 Environmental Checklist and Discussion**

RECREATION						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Based on an average of 3.10 persons per household, implementation of the proposed General Plan amendments and rezoning/rezoning, allowing for up to 160 multi-family units, could generate up to

<sup>39</sup> Rymer, Steve. Director of Recreation and Community Services, City of Morgan Hill. Email Communication September 20, 2011.

approximately 496 new residents in those units.<sup>40</sup> Additionally, the anticipated development of 180 senior assisted living facility units could generated up to 236 residents<sup>41</sup>, for a total of 732 future residents on the site. Future development would be subject to the City's parkland dedication/park land in-lieu fee ordinance to reduce impact on park facilities. Future projects will be required to comply with the City's parkland dedication or in-lieu fees for residential developments, which will avoid significant impacts to the City's park facilities.

#### **4.15.3 Program Mitigation and Avoidance Measures**

##### **Morgan Hill General Plan**

Many of the policies in the City's General Plan were adopted for the purpose of avoiding or mitigating environmental effects that could result from development planned within the City. All future development is subject to General Plan policies, including the following, which will reduce or avoid recreation impacts:

- *Services Policy 16c* – Identify public facility and service needs, and coordinate their development to minimize costs and support achievement of community goals. (SCJAP 5.00)
- *Parks and Recreation Policy 18a* – Recreational facilities and programs shall meet the needs of all Morgan Hill residents, including seniors, youth, and citizens with disabilities.
- *Parks and Recreation Policy 18h* – Parks and recreational facilities shall be designed to primarily meet community needs. Regional need may be a consideration in the planning and design of recreation facilities if there are long-term operations and maintenance benefits (such as facilities where regional tournaments may help off-set long-term operations costs) and/or meet other General Plan goals (such as economic development). Facilities that may meet regional needs shall be located and designed in such a way to minimize impact on residential neighborhoods.

#### **4.15.4 Conclusion**

Future development resulting from the proposed project would increase the demand for recreational facilities in the City of Morgan Hill. Standard measures required by the City of Morgan Hill will avoid impacts to recreational facilities from new residential development. **(Less Than Significant Impact)**

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<sup>40</sup> Department of Finance. City/County Population and Housing Estimates. April 2010.  
<http://www.dof.ca.gov/research/demographic/reports/estimates/e-5/2011-20/view.php>

<sup>41</sup> Energystar.gov. Space Use Information – Senior Care Facility. Accessed September 8, 2011.  
[https://www.energystar.gov/istar/pmpam/help/Space\\_Use\\_Information\\_-\\_Senior\\_Care\\_Facility.htm](https://www.energystar.gov/istar/pmpam/help/Space_Use_Information_-_Senior_Care_Facility.htm)

## 4.16 TRANSPORTATION

The following discussion is based upon a Transportation Impact Analysis prepared by Fehr and Peers in September 2011. A copy of the analysis is provided in Appendix E of this Initial Study.

### 4.16.1 Setting

#### 4.16.1.1 *Regional and Local Roadway Access*

Regional access to the site is provided via US 101 and Monterey Road. Local access is provided via West Middle Avenue, John Wilson Way, Watsonville Road, Vineyard Boulevard, Tennant Avenue, and Butterfield Boulevard. Each of these roadways is described below:

United States Route 101 (US 101) is a north-south freeway that serves as the primary roadway connection between Morgan Hill and all other areas of Santa Clara County. US 101 extends north past San Francisco and south to Los Angeles. The freeway includes six lanes (three mixed-flow lanes in each direction) within most of Morgan Hill. North of Cochrane Road, US 101 widens to eight lanes (three mixed-flow lanes and one high occupancy vehicle (HOV) lane in each direction). The Tennant Avenue interchange provides access to the project site.

Monterey Road provides regional access to Gilroy and San Jose and local access within the City of Morgan Hill. North of Cochrane Road, Monterey Road is four-lanes wide. Within Morgan Hill, Monterey Road is a four-lane arterial with on-street parking and left-turn lanes at intersections. Monterey Road narrows to a single southbound lane near the Union Pacific Railroad over-crossing between Cochrane Road and Wright Avenue. Monterey Road features a continuous center lane for left turns from Wright Avenue to Main Avenue and south of Dunne Avenue. The speed limit on Monterey Road is 45 miles per hour (mph) south of East Dunne Avenue.

Vineyard Boulevard is an east-west collector street that intersects with Tennant Avenue and Monterey Road extending from La Crosse Drive to Mast Street. Class II bike lanes are present along this roadway.

Tennant Avenue is a divided east-west arterial between Monterey Road and US 101. East of US 101, Tennant Road is a two-lane rural road that extends eastward to Foothill Avenue.

Butterfield Boulevard is a four-lane, divided arterial that extends southward from its intersection with Cochrane Road to Tennant Avenue and is a primary corridor through the City. Butterfield Boulevard forms the eastern boundary of downtown Morgan Hill. The roadway is posted at 45 mph and is signalized at intersections with major cross streets. A separated Class I bikeway and pedestrian path is present along the roadway.

Watsonville Road is an east-west arterial that connects to Monterey Road at the northeast corner of the project site. Access to the project site is provided via this road.

West Middle Avenue is an east-west collector street that intersects with Monterey Road and extends southwest to Walnut Drive. West Middle Avenue is located south of the project site.

John Wilson Way is located in the center of the project site. Access to the Oakwood Country School located within the project site is via John Wilson Way.

#### **4.16.1.2 Study Area**

This analysis evaluated the operations of nine study intersections, which were selected in consultation with City staff and based on VTA's guidelines:

- |                                     |   |
|-------------------------------------|---|
| 1. Monterey Road/West Middle Avenue | 6. Tennant Avenue/Vineyard Boulevard      |
| 2. Monterey Road/John Wilson Way    | 7. Tennant Avenue/Butterfield Boulevard   |
| 3. Monterey Road/Watsonville Road   | 8. Tennant Avenue/US-101 Southbound Ramps |
| 4. Monterey Road/Vineyard Boulevard | 9. Tennant Avenue/US-101 Northbound Ramps |
| 5. Monterey Road/Tennant Avenue     |   |

This study also included evaluation the following two US 101 freeway segments (northbound and southbound):

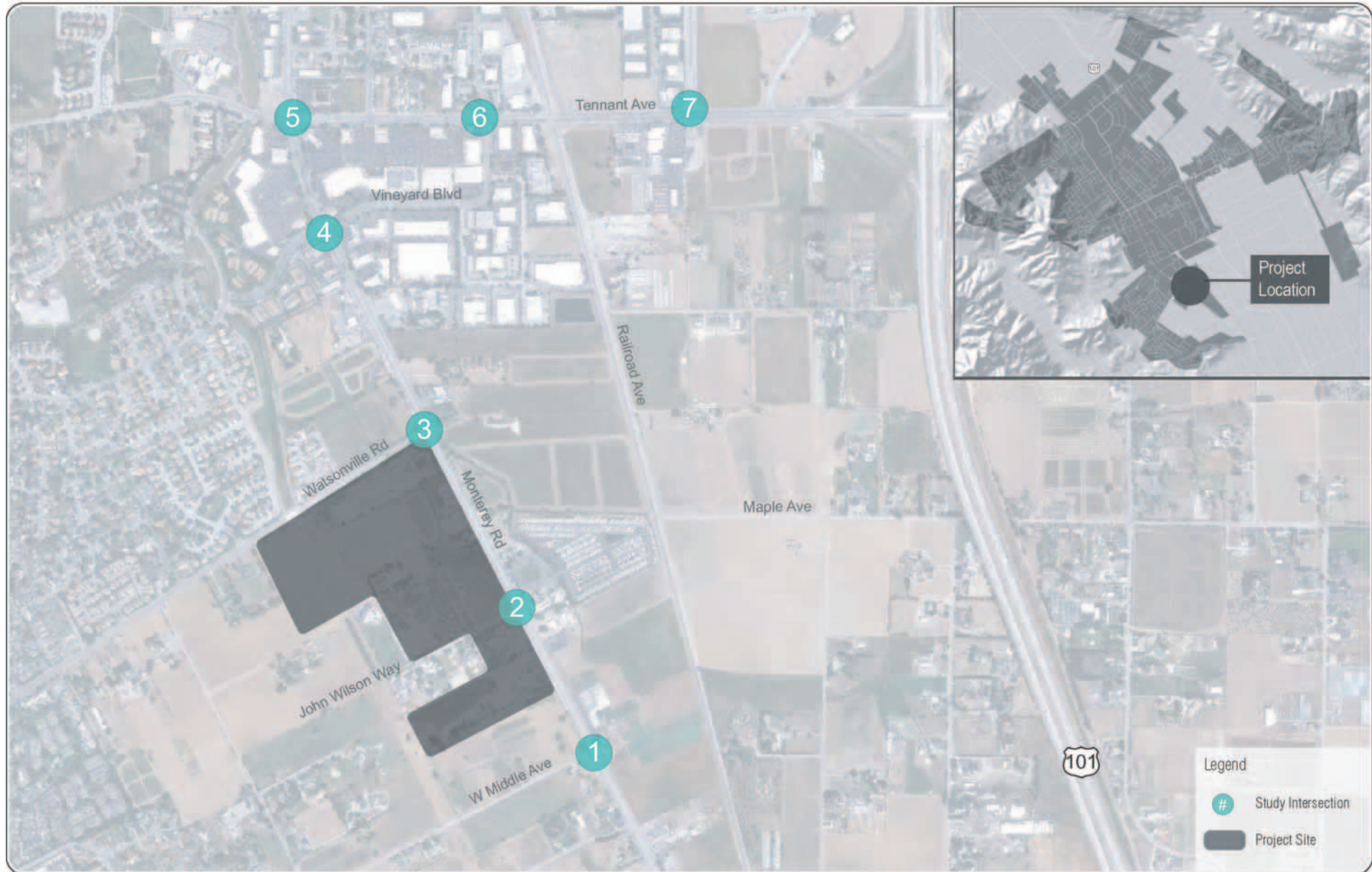
- US 101 between Dunne Avenue and Tennant Avenue
- US 101 between Tennant Avenue and San Martin Avenue

Figure 6 presents the project location, surrounding transportation system, and study intersection locations.

#### **4.16.1.3 Transit Facilities**

The VTA operates fixed route, commuter, and paratransit bus service and light rail service (LRT) in Santa Clara County. VTA provides four bus routes (two local and two regional) that serve the project area. The Peninsula Corridor Joint Powers Board operates Caltrain commuter rail service between San Francisco and San Jose, with weekday commute-hour service to Morgan Hill and Gilroy. Monterey Salinas Transit (MST) operates transit service in Monterey County, and provides express bus service to Morgan Hill and San Jose.

Currently no transit stops are located near the project site. Route 121 operates through Morgan Hill via Butterfield Boulevard and Monterey Road. Route 121 provides connections with Route 68 and the Caltrain station in Morgan Hill. No weekend service is available. Route 168 operates through Morgan Hill via Butterfield Boulevard and Monterey Road. Route 168 provides connections with Route 68 and the Caltrain station in Morgan Hill. No weekend service is available. MST 55 operates through Morgan Hill via US 101 and provides a connection with the Caltrain station in Morgan Hill. Caltrain provides frequent daily train service between San Jose and San Francisco. Service extends south to Morgan Hill and Gilroy during commute hours, with three northbound trips during the AM peak period and three southbound trips during the PM peak period stopping at both the Gilroy and Morgan Hill Caltrain Stations.



PROJECT SITE AND STUDY INTERSECTION LOCATIONS

FIGURE 6

#### **4.16.1.4 Pedestrian and Bicycle Facilities**

Pedestrian facilities comprising sidewalks, crosswalks, and pedestrian signals are generally provided at all of the signalized study intersections. Sidewalks are generally provided along both sides of Tennant Avenue and Monterey Road north of Vineyard Boulevard. A sidewalk is provided on the northern side of John Wilson Way. Sidewalks are not currently provided along Monterey Road south of Vineyard Boulevard or along the eastern portions of West Middle Avenue and Watsonville Road near the Monterey Road/Watsonville Road intersection. The unsignalized intersection of Monterey Road/West Middle Avenue has no crosswalks.

Bikeway planning and design in California typically relies on the guidelines and design standards established by Caltrans in the Highway Design Manual. Under California law, bicyclists are allowed to use all roadways in California unless posted closed. Therefore, of the roadways that have no designated (or planned) bikeways identified, a majority are open for cycling. Caltrans standards provide for three distinct types of bikeway facilities, as generally described below.

*Class I Bikeways (Shared-Use Paths)* provide a completely separate right-of-way and are designated for the exclusive use of bicycles and pedestrians with vehicle and pedestrian cross-flow minimized. In general, shared-use paths serve corridors not served by roadways or where sufficient right-of-way exists to allow such facilities to be constructed away from the influence of parallel streets and numerous vehicle conflicts.

*Class II Bikeways (Bike Lanes)* are lanes for bicyclists adjacent to the outer vehicle travel lanes. These lanes have special lane markings, pavement legends, and signage. Bicycle lanes are generally five feet wide. Adjacent vehicle parking and vehicle/pedestrian cross-flow are permitted.

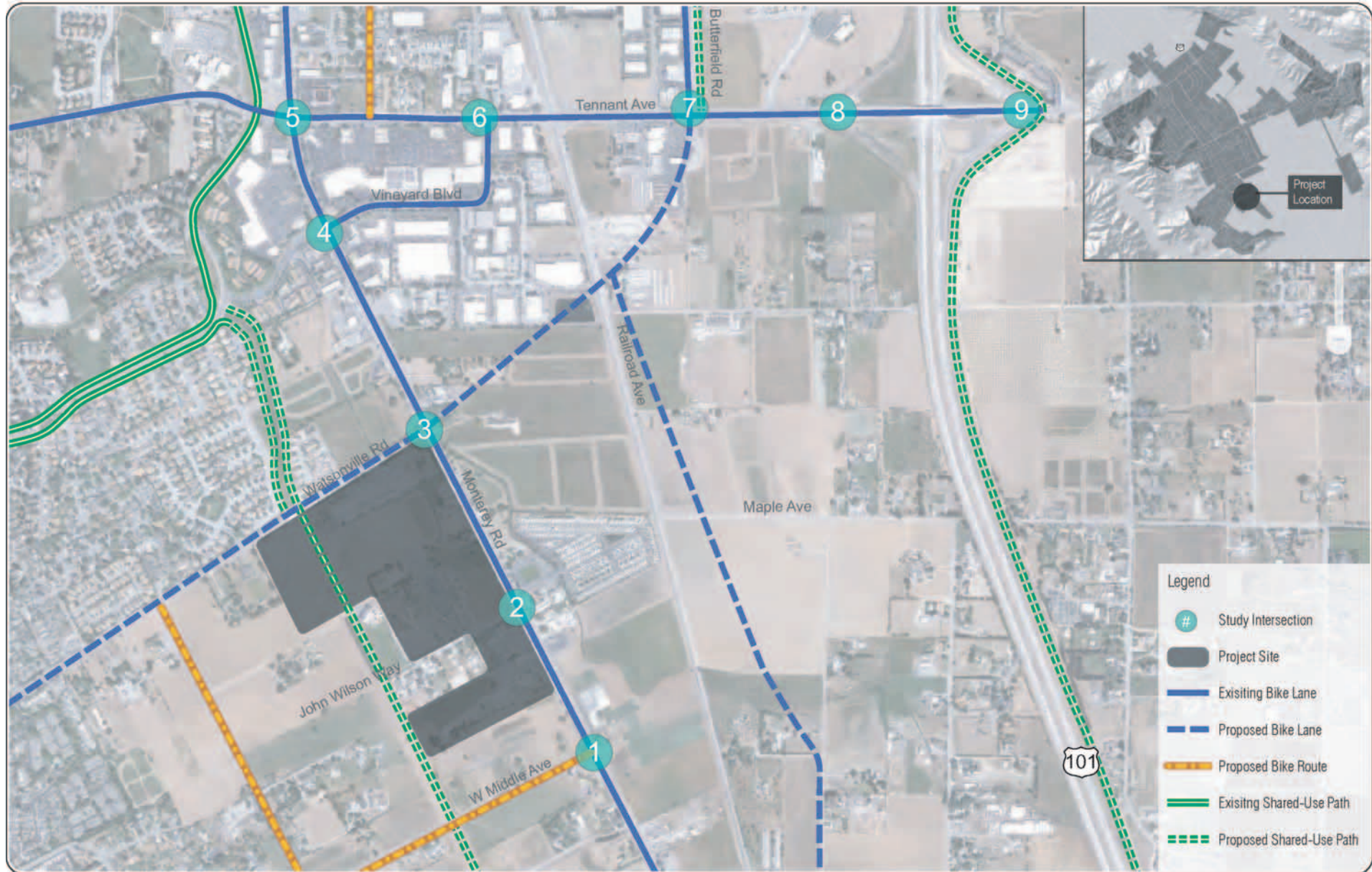
*Class III Bikeways (Bike Routes)* are designated by signs or pavement markings for shared use with pedestrians or motor vehicles, but have no separated bike right-of-way or lane striping. Bike routes serve either to: a) provide continuity to other bicycle facilities, or b) designate preferred routes through high demand corridors.

Class II bike lanes are located along the following roadways in the study area: Monterey Road north of East Middle Avenue, Vineyard Boulevard between Monterey Road and Tennant Avenue, Tennant Avenue between Community Park Trail and US-101 Northbound Ramps. No Class I bike paths or Class III bike routes exist in the project vicinity. Figure 7 shows bicycle facilities in the project area.

#### **4.16.1.4 Intersection Level of Service Methodology**

The operations of roadway facilities are described with the term level of service (LOS). LOS is a qualitative description of traffic flow based on such factors as speed, travel time, delay, and freedom to maneuver. Six levels are defined from LOS A, with the least congested operating conditions, to LOS F, with the most congested operating conditions. LOS E represents “at-capacity” operations. Operations are described as LOS F when volumes exceed capacity, resulting in stop-and-go conditions.





EXISTING BICYCLE FACILITIES

FIGURE 7

## Signalized Intersections

The LOS analysis method for signalized intersections approved by the City of Morgan Hill and VTA analyzes intersection operations based on average control vehicular delay, as described in Chapter 16 of the *2000 Highway Capacity Manual* (2000 HCM) published by the Transportation Research Board, with adjusted saturation flow rates to reflect conditions in Santa Clara County. Control delay includes initial deceleration delay, queue move-up time, stopped delay, and final acceleration delay. The average control delay for signalized intersections is calculated using TRAFFIX analysis software and is correlated to a LOS designation as shown in Table 4.16-1.

<b>Table 4.16-1: Signalized Intersection Level of Service Definitions</b>		
<b>Level of Service</b>	<b>Description</b>	<b>Average Control Delay per Vehicle (seconds)</b>
A	Operations with very low delay occurring with favorable progression and/or short cycle lengths	≤ 10.0
B+	Operations with low delay occurring with good progression and/or short cycle lengths.	10.1 to 12.0
B		12.1 to 18.0
B-		18.1 to 20.0
C+	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear.	20.1 to 23.0
C		23.1 to 32.0
C-		32.1 to 35.0
D+	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, and high V/C ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 39.0
D		39.1 to 51.0
D-		51.1 to 55.0
E+	Operations with high delay valued indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences.	55.1 to 60.0
E		60.1 to 75.0
E-		75.1 to 80.0
F	Operations with delays unacceptable to most drivers occurring due to over-saturation, poor progression, or very long cycle lengths.	> 80.0
Source: VTA's Congestion Management Program (CMP) Traffic Level of Service Analysis Guidelines, June 2003, and Transportation Research Board, Highway Capacity Manual, 2000.		

## Unsignalized Intersections

Operations of the unsignalized study intersections are evaluated using the method contained in Chapter 17 of the 2000 HCM and calculated using TRAFFIX analysis software. LOS ratings for stop-sign controlled intersections are based on the average control delay expressed in seconds per vehicle. At two-way or side-street-stop controlled intersections, control delay is calculated for each movement, not for the intersection as a whole. For approaches composed of a single lane, delay is computed as the average of all movements in that lane. For all-way stop-controlled locations, a weighted average delay for the entire intersection is presented. Table 4.16-2 summarizes the relationship between delay and LOS for unsignalized intersections.

<b>Table 4.16-2: Unsignalized Intersection Level of Service Definitions</b>		
<b>Level of Service</b>	<b>Description</b>	<b>Average Control Delay Per Vehicle (Seconds)</b>
A	Little or no delay.	≤ 10.0
B	Short traffic delays.	10.1 to 15.0
C	Average traffic delays.	15.1 to 25.0
D	Long traffic delays.	25.1 to 35.0
E	Very long traffic delays.	35.1 to 50.0
F	Extreme traffic delays with intersection capacity exceeded.	> 50.0
Source: Transportation Research Board, Highway Capacity Manual, 2000.		

### **General Plan Circulation Element LOS Policy**

The City of Morgan Hill currently maintains the following tiered approach for minimum acceptable LOS at intersections:

**LOS F** in the Downtown intersections along Monterey Road between Main and Fifth Street, and along Depot Street at First through Fifth Street;

**LOS E** for the following intersections and freeway zones:

- Main Avenue and Del Monte Avenue
- Main Avenue and Depot Street
- Dunne Avenue and Del Monte Avenue
- Dunne Avenue and Monterey Avenue
- Dunne Avenue and Church Street; also until closed: Dunne Avenue and Depot Street
- Cochrane Road and Monterey Road
- Tennant Avenue and Monterey Road
- Tennant Avenue and Butterfield Boulevard
- Cochrane Road Freeway Zone: from Madrone Parkway/Cochrane Plaza to Cochrane/DePaul Drive
- Dunne Avenue Freeway Zone: from Walnut Grove/East Dunne to Condit/East Dunne
- Tennant Avenue Freeway Zone: from Butterfield/Tennant to Condit/Tennant
- Freeway Ramps (such as Dunne Avenue/US 101 Southbound Ramps)

**LOS D** for all remaining intersections and roadway segments in the City.

Based on the above approach, the following signalized intersections would have a minimum acceptable threshold of LOS E: Tennant Avenue/Monterey Road, Tennant Avenue/Butterfield Boulevard, Tennant Avenue/US 101 Southbound Ramps, and Tennant Avenue/US 101 Northbound Ramps. The remaining signalized study locations would have a minimum acceptable threshold of LOS D.

The City has generally used a minimum acceptable operating level of LOS D for unsignalized intersections and peak hour signal warrant analysis to identify significant traffic impacts. Therefore,

the unsignalized study intersection at Monterey Road/West Middle Avenue has a minimum acceptable threshold of LOS D for this analysis.

### Freeway Segments

Freeway segments are evaluated using the VTA analysis procedure, which is based on the density of the traffic flow using methods described in the 2000 HCM. Density is expressed in passenger cars per mile per lane. The Congestion Management Program (CMP) range of densities for freeway segment LOS is shown in Table 4.16-3. The LOS standard for freeway segments is LOS E.

Level of Service	Density (passenger cars per mile per lane)
A	≤ 11
B	11.1 to 18.0
C	18.1 to 26.0
D	26.1 to 46.0
E	46.1 to 58.0
F	> 58.0

Sources: Traffic Level of Service Analysis Guidelines, VTA Congestion Management Program, June 2003; Highway Capacity Manual, Transportation Research Board, 2000.

#### 4.16.1.5 Existing Intersection Levels of Service

Existing intersection lane configurations, signal timings, and peak-hour turning movement volumes were used as inputs for the LOS calculations. The results are presented in Table 4.16-4, below. Measured against the City of Morgan Hill LOS standard, all of the study intersections are operating at acceptable levels of service during both peak hours under existing conditions.

Intersection	Traffic Control <sup>1</sup>	Peak Hour	Delay <sup>2</sup>	LOS <sup>3</sup>
1. Monterey Road/West Middle Avenue	SSSC	AM	11.8	B
		PM	12.3	B
2. Monterey Road/John Wilson Way	Signal	AM	16.2	B
		PM	16.8	B
3. Monterey Road/Watsonville Road	Signal	AM	16.8	B
		PM	11.8	B
4. Monterey Road/Vineyard Boulevard	Signal	AM	26.6	C
		PM	28.6	C
5. Monterey Road/Tennant Avenue	Signal	AM	24.1	C
		PM	34.5	C
6. Tennant Avenue/Vineyard Boulevard**	Signal	AM	31.5	C
		PM	35.9	D

Table 4.16-4: Existing Intersection Levels Of Service				
Intersection	Traffic Control <sup>1</sup>	Peak Hour	Delay <sup>2</sup>	LOS <sup>3</sup>
7. Tennant Avenue/Butterfield Boulevard**	Signal	AM	21.6	C
		PM	26.5	C
8. Tennant Avenue/US-101 SB Ramps**	Signal	AM	21.6	C
		PM	30.1	C
9. Tennant Avenue/US-101 NB Ramps**	Signal	AM	17.2	B
		PM	19.2	B

Notes:  
<sup>1</sup> SSSC = Side-Street Stop Control  
<sup>2</sup> Whole intersection weighted average control delay expressed in seconds per vehicle calculated using methods described in the 2000 HCM, with adjusted saturation flow rates to reflect Santa Clara County Conditions for signalized intersections. Total control delay for the worst movement is presented for side-street stop-controlled intersections.  
<sup>3</sup> LOS = Level of service. LOS calculations conducted using the TRAFFIX level of service analysis software package.  
 \*\* LOS E threshold (all other intersections have LOS D threshold)  
 Source: Fehr & Peers, September 2011.

#### 4.16.1.6 Existing Freeway Segment Levels of Service

Freeway segment densities reported in the latest (2010) VTA's Monitoring and Conformance Report were used to calculate the levels of service for the key freeway segments during the AM and PM peak hours. The results of the LOS analysis for existing conditions are presented in Table 4.16-5.

Table 4.16-5: Existing Freeway Segment Levels of Service										
Freeway	Direction	From	To	Peak Hour	Lanes		Density <sup>1</sup>		LOS <sup>2</sup>	
					Mixed	HOV	Mixed	HOV	Mixed	HOV
US 101	North-bound	Tennant Avenue	Dunne Avenue	AM	3	0	<b>69</b>	N/A	<b>F</b>	N/A
				PM	3	0	20		C	
		San Martin Avenue	Tennant Avenue	AM	3	0	<b>66</b>	N/A	<b>F</b>	N/A
				PM	3	0	22		C	
	South-bound	Dunne Avenue	Tennant Avenue	AM	3	0	13	N/A	B	N/A
				PM	3	0	31		D	
		Tennant Avenue	San Martin Avenue	AM	3	0	13	N/A	B	N/A
				PM	3	0	31		D	

Notes:  
<sup>1</sup> Measured in passenger cars per mile per lane.  
<sup>2</sup> LOS = level of service. N/A = Not applicable. Freeway segment does not have HOV lanes.  
**Bold** text indicated unacceptable freeway operations based on VTA's LOS standards.  
 Source: VTA, 2010. Fehr & Peers, September 2011.

All freeway segments operate at or above the VTA's LOS E standard, except for the northbound segments between Dunne Avenue and Tennant Avenue and Tennant Avenue and San Martin Avenue during the AM peak hour.

**4.16.2 Environmental Checklist and Discussion**

TRANSPORTATION/TRAFFIC						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
1) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,14
2) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,14
3) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,14
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,14
5) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,14
6) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,14



#### **4.16.2.1      *Thresholds of Significance***

The following standards of significance apply to the transportation impacts discussed in this study. These standards are consistent with the *Guidelines for Preparation of Transportation Impact Reports* (City of Morgan Hill, February 2010).

##### **Signalized Intersections**

The City's LOS standard for the study intersections of Tennant Avenue/Monterey Road, Tennant Avenue/Butterfield Boulevard, Tennant Avenue/US 101 Southbound Ramps, and Tennant Avenue/US 101 Northbound Ramps is LOS E. The LOS standard for the remaining intersections is LOS D. The City of Morgan Hill has adopted the signalized intersection impact criteria as defined by the VTA; therefore, traffic impacts at City of Morgan Hill intersections would occur when the addition of traffic associated with implementation of the project causes:

- Intersection operations to deteriorate from an acceptable level under existing conditions to an unacceptable level; or,
- Exacerbation of unacceptable operations under existing conditions by increasing the average critical delay by more than 4 seconds and increasing the critical volume-to-capacity (V/C) ratio by 0.01 or more at an intersection operating at LOS E or LOS F under Project Conditions.

##### **Unsignalized Intersections**

Level of service analysis at unsignalized intersections is generally used to determine the need for modifying intersection control type (i.e. all-way stop or signalization). As part of this evaluation traffic volumes, delay, and traffic signal warrants are evaluated to determine if the existing intersection control is appropriate.

The City has generally used a minimum acceptable operating level of LOS D for unsignalized intersections. Significant impacts occur when the addition of project traffic for the worst movement/approach degrades to LOS E or LOS F and the intersection satisfies peak hour signal warrant criteria.

##### **Freeway Impact Criteria**

According to VTA's Transportation Impact Analysis Guidelines (VTA, 2009) a freeway segment analysis should be included if the project meets one of the following requirements:

- The proposed development project is expected to add traffic equal to at least one percent of a freeway segment's capacity.
- The proposed development project is adjacent to one of the freeway segment's access or egress points.
- Based on engineering judgment, Lead Agency staff determines that the freeway segment should be included in the analysis.

If a project meets the criteria outlined above, then the implementation of the Proposed Project could result in a significant impact if the addition of project traffic on a freeway segment exceeded one of the following thresholds:

- The addition of project traffic causes the operating level of a freeway segment to deteriorate from LOS E or better under Existing Conditions to LOS F; or
- The number of new trips added by a Proposed Project to a segment already operating at LOS F under Existing Conditions is more than one percent of the freeway segment capacity

#### **4.16.2.2      *Project Conditions***

The amount of traffic associated with the project was estimated using a three-step process: (1) trip generation, (2) trip distribution, and (3) trip assignment. In the first step, the amount of traffic entering and exiting the project area was estimated on a daily and peak-hour basis. In the second step, the direction vehicles use to approach and depart the site was estimated. The trips were assigned to specific street segments and intersection turning movements in the third step and added to the existing traffic volumes to develop existing with project traffic volumes. The results of the process for this analysis are described in the following sections.

#### **Trip Generation**

Net new trip generation estimates for the proposed project are based on land use assumptions provided by City of Morgan Hill and were calculated using six different land use types identified in *Trip Generation, 8th Edition* (Institute of Transportation Engineers (ITE), 2008). The results are presented in Table 4.16-6.

The Proposed Project includes retail uses, and not all trips associated with this land use are expected to be new trips added to the roadway network. In the case of this project, a portion of the retail trips will already be traveling on Monterey Road and will pass the site or divert from their current path of travel to access the retail land uses and then continue on to their ultimate destination. The average pass-by trip rates presented in ITE's *Trip Generation Handbook* (2nd Edition) for shopping centers is 34 percent. Guidelines presented by the Valley Transportation Authority (VTA), the congestion management agency for Santa Clara County, recommend that a maximum combined pass-by/diverted link reduction of 30 percent should be applied per applicable land use. Since the retail uses include commercial and personal service uses which are anticipated to have fewer pass-by/diverted link trips than a shopping center, a ten percent pass-by/diverted link trip reduction was applied to the daily peak-hour trip generation estimates and a 15 percent pass-by/diverted link trip reduction was applied to the PM peak-hour trip generation estimates for retail uses. A five percent pass-by/diverted link trip reduction rate was applied to the AM peak hour trips, since the type of commercial and personal service land uses proposed are likely to have lower pass-by/diverted link trip characteristics during the morning commute period.

As shown in Table 4.16-6, the proposed project would result in 5,438 net new daily vehicle trips, 263 net new AM peak hour vehicle trips, and 380 net new PM peak hour vehicle trips.

**Table 4.16-6:  
Trip Generation Estimates**

Land Use	ITE Land Use	Size	Units	Trip Generation Rates							Trip Generation Estimates						
				Daily	AM Peak Hour			PM Peak Hour			Daily	AM Peak Hour			PM Peak Hour		
					In-bound	Out-bound	Total	In-bound	Out-bound	Total		In-bound	Out-bound	Total	In-bound	Out-bound	Total
<b>EXISTING</b>																	
Single-Family	210	1	d.u.	10.00	0.00	1.00	1.00	1.00	0.00	1.00	10	0	1	1	1	0	1
Commercial/Personal Service <sup>2</sup>	820/814	4,250	s.f.	51.64	0.61	5.01	5.62	3.28	4.17	7.45	219	2	21	24	14	18	32
Church	560	11,613	s.f.	9.11	0.35	0.21	0.56	0.48	0.07	0.55	106	4	3	7	5	1	6
Extensive Retail <sup>2</sup>	817	896	s.f.	36.08	0.68	0.00	1.31	1.94	1.86	3.80	32	1	0	1	2	1	3
<b>Total Existing Project Trips:</b>											<b>368</b>	<b>7</b>	<b>25</b>	<b>33</b>	<b>22</b>	<b>20</b>	<b>42</b>
Pass-by/Diverted Link for Retail (10%daily, 5% AM,15%PM):											(22)	(0)	(1)	(1)	(2)	(3)	(5)
<b>PROPOSED</b>																	
Multi-Family <sup>3</sup>	230	160	d.u.	6.83	0.10	0.41	0.51	0.43	0.23	0.66	1,093	16	66	82	69	37	106
Senior Housing	252	180	d.u.	5.19	0.08	0.14	0.22	0.16	0.11	0.27	935	14	26	40	30	19	49
General Office	710	11,000	s.f.	11.01	1.36	0.19	1.55	0.25	1.24	1.49	121	15	2	17	2	14	16
Commercial/Personal Service <sup>2</sup>	820/814	70,600	s.f.	43.31	0.61	1.17	1.78	1.19	1.51	2.70	3,058	43	82	125	84	107	191
Church	560	20,000	s.f.	9.11	0.35	0.21	0.56	0.48	0.07	0.55	182	7	4	11	10	1	11
Extensive Retail	817	19,400	s.f.	36.08	0.68	0.63	1.31	1.94	1.86	3.80	700	13	12	25	38	36	74
<b>Total Project Trips:</b>											<b>6,089</b>	<b>109</b>	<b>192</b>	<b>301</b>	<b>233</b>	<b>214</b>	<b>447</b>
Pass-by/Diverted Link for Retail (10%daily, 5% AM, 5%PM):											(306)	(2)	(4)	(6)	(13)	(16)	(29)
<b>Net New Project Trips Total:</b>											<b>5,438</b>	<b>99</b>	<b>164</b>	<b>263</b>	<b>200</b>	<b>180</b>	<b>380</b>

Notes:

<sup>1</sup> Oakwood Country School is part of the project area and would remain on the site; however the school expansion has been the subject of its own environmental review, and the traffic impacts of that expansion were found to be less than significant. The cumulative effects of the approved school expansion were included in the cumulative traffic analysis.

<sup>2</sup> Shopping Center Rate (820) used for AM peak hour since AM rates are unavailable for Specialty Retail (814). The effective rate is based on the ITE equation for this land use.

<sup>3</sup> The effective rate is based on the ITE equation for this land use. *Source: Trip Generation (8th Edition), Institute of Transportation Engineers, 2008.*

## **Trip Distribution**

Trip distribution is defined as the directions of approach and departure that vehicles would use to arrive at and depart from the site. Trip distribution percentages were developed based on existing traffic patterns at the study intersections and the locations of complementary land uses. Distribution patterns are expected to be similar for the AM and PM peak periods. Project-generated trips were assigned to the surrounding transportation network based on the general directions of approach and departure illustrated in Figure 8. As shown, the project-generated vehicle trips would be distributed as follows:

- 30% to/from the north on Monterey Road
- 10% to/from the south on Monterey Road
- 25% to/from the north on US-101
- 10% to/from the south on US-101
- 15% to/from the west on Watsonville Road
- 5% to/from the east on Tennant Avenue
- 5% to/from the north on Butterfield Boulevard

## **Trip Assignment**

Figure 8 shows the trip assignment through the study network under existing with project conditions. Project trips were added to existing traffic volumes to establish intersection volumes for project conditions.

## **Project Intersection Levels of Service**

The results of the intersection LOS calculations for project conditions are presented in Table 4.16-7. The results for existing conditions are included for comparison purposes, along with the projected increases in critical delay and critical volume-to-capacity (V/C) ratios. Critical delay represents the delay associated with the critical movements of the intersection, or the movements that require the most “green time” and have the greatest effect on overall intersection operations. The changes in critical delay and critical V/C ratio between existing and project conditions are used to identify significant impacts. Under project conditions, all study intersections are projected to operate at acceptable levels of service, at LOS D or better during both peak hours.

As shown in Table 4.16-7, the intersection of Monterey Road/Tennant Avenue shows a slight reduction in average delay with the addition of project traffic during the AM peak-period, which is counter-intuitive. The average delay values in the table are weighted averages. Weighted average delays will be reduced when traffic is added to a movement with a low delay.<sup>42</sup> Conversely, relatively small volume increases to movements with high delays can substantially increase the weighted average delay.

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<sup>42</sup> For example, if there is one movement with 10 vehicles with a delay of 100 seconds and another movement with 400 vehicles and 10 seconds of delay, the weighted average delay is calculated as  $(100 \text{ seconds} \times 10 \text{ vehicles} + 10 \text{ seconds} \times 400 \text{ vehicles}) / 410 \text{ vehicles} = 12.2 \text{ seconds per vehicle}$ . Now if 100 vehicles are added to the movement with 10 seconds of delay, the weight average is calculated as  $(100 \text{ seconds} \times 10 \text{ vehicles} + 10 \text{ seconds} \times 500 \text{ vehicles}) / 510 \text{ vehicles} = 11.8 \text{ seconds per vehicle}$ . The weighted average delay improves, even though more vehicles are added.



PROJECT TRIP DISTRIBUTION AND ASSIGNMENT

FIGURE 8

**Table 4.16-7:  
Project Intersection Levels of Service**

Intersection	Peak Hour	Existing		Project			
		Delay <sup>1</sup>	LOS <sup>2</sup>	Delay <sup>1</sup>	LOS <sup>2</sup>	Δ in Crit. V/C <sup>3</sup>	Δ in Crit. Delay <sup>4</sup>
1. Monterey Road/West Middle Avenue*	AM	11.8	B	11.8	B	N/A	N/A
	PM	12.3	B	12.3	B		
2. Monterey Road/John Wilson Way	AM	16.2	B	17.4	B	+0.031	+1.3
	PM	16.8	B	17.1	B	+0.039	+0.6
3. Monterey Road/Watsonville Road	AM	16.8	B	17.8	B	+0.059	+0.9
	PM	11.8	B	13.3	B	+0.110	+2.4
4. Monterey Road/Vineyard Boulevard	AM	26.6	C	26.7	B	+0.023	+0.5
	PM	28.6	C	28.8	C	+0.055	+0.6
5. Monterey Road/Tennant Avenue**	AM	24.1	C	23.9	C	+0.025	+0.2
	PM	34.5	C	34.2	C-	+0.040	-0.1
6. Tennant Avenue/Vineyard Boulevard	AM	31.5	C	32.7	C-	+0.037	+1.9
	PM	35.9	D	39.8	D	+0.051	+6.2
7. Tennant Avenue/Butterfield Boulevard**	AM	21.6	C	21.6	C+	+0.021	+0.2
	PM	26.5	C	27.0	C	+0.037	+1.1
8. Tennant Avenue/US-101 SB Ramps**	AM	21.6	C	22.0	C+	+0.030	+0.4
	PM	30.1	C	30.7	C	+0.046	+1.3
9. Tennant Avenue/US-101 NB Ramps**	AM	17.2	B	17.6	B	+0.011	+0.2
	PM	19.2	B	19.6	B-	+0.015	+0.2

<sup>1</sup> Whole intersection weighted average control delay expressed in seconds per vehicle calculated using methods described in the 2000 HCM, with adjusted saturation flow rates to reflect Santa Clara County Conditions for signalized intersections. Total control delay for the worst movement is presented for side-street stop-controlled intersections.

<sup>2</sup> LOS = Level of service. LOS calculations conducted using the TRAFFIX level of service analysis software package.

<sup>3</sup> Change in the critical volume-to-capacity ratio (V/C) between existing and project conditions.

<sup>4</sup> Change in critical movement delay between existing and project conditions.

\*Unsignalized intersection

\*\* LOS E threshold (all other intersections have LOS D threshold)

### Project Freeway Segment Level of Service

According to CMP guidelines, freeway segments to which a proposed development is projected to add trips equal to or greater than one percent of the freeway segment's capacity must be evaluated. The freeway segments immediately north and south of Tennant Avenue were reviewed to determine if a significant amount of project traffic would be added. Capacities of 2,300 vehicles per hour per lane (vphpl) for freeway segments with three or more lanes in each direction were used in the freeway analysis.

Table 4.16-8 presents the estimated number of net new trips added to the freeway segments under project conditions. The proposed project would not add new trips greater than one percent of the capacity to any of the study freeway segments. Therefore, no additional freeway segment analysis is required for the proposed project.



**Table 4.16-8:  
Project Freeway Segment Impact Evaluation**

Travel Direction <sup>1</sup>	Segment		Peak Hour	Mixed Flow Lanes		Trips Added	% Added <sup>2</sup>
	From	To		Number of Lanes	Capacity		
NB US 101	Tennant Avenue	Dunne Avenue	AM	3	6,900	41	< 1%
			PM	3	6,900	45	< 1%
	San Martin Avenue	Tennant Avenue	AM	3	6,900	10	< 1%
			PM	3	6,900	20	< 1%
SB US 101	Dunne Avenue	Tennant Avenue	AM	3	6,900	25	< 1%
			PM	3	6,900	31	< 1%
	Tennant Avenue	San Martin Avenue	AM	3	6,900	16	< 1%
			PM	3	6,900	31	< 1%

<sup>1</sup> NB = Northbound, SB = Southbound.

<sup>2</sup> Percent project trips added to mixed flow lane capacity.

### Transit, Pedestrian, and Bicycle Facilities

Currently, there are six transit stops within a half a mile of the project site. Patrons utilizing Caltrain to access the project site would have to walk more than one mile to the Caltrain station. Transit ridership generated by the proposed project is expected to be minimal and would not conflict with existing or planned transit facilities.

Currently, no sidewalk exists adjacent to the project site on Watsonville Road near the Monterey Road/Watsonville Road intersection. The project would provide sidewalks along its frontage on Watsonville Road to improve pedestrian access to adjacent land uses. The project would likely increase the number of pedestrians at intersections near the project site. With the addition of sidewalks along Watsonville Road near the Monterey Road/Watsonville Road intersection, pedestrian circulation is expected to be adequate.

The existing bicycle lane on Monterey Road provides direct access to the proposed project site. Based on the City's 2008 Bikeways Master Plan Update, a shared-use path is proposed along Llagas Creek and a bike route is proposed along West Middle Avenue and Watsonville Road near the proposed project site. The project does not conflict with any adopted bicycle plan, policy, or facility.

#### 4.16.2.3 2030 General Plan Conditions

This discussion describes the expected traffic operations under 2030 General Plan conditions with and without the proposed GPA. The City of Morgan Hill travel demand forecasting model was used to estimate 2030 traffic volumes. 2030 land use and network assumptions are briefly discussed below and followed by a more detailed discussion of intersection operations.

## Land Use and Transportation Network Assumptions

The 2030 land use estimates were based on input from City staff and regionally approved data from the Association of Bay Area Governments (ABAG). Also included in the model is the planned roadway network based on the 2010 General Plan Circulation Element. Two of the study intersections are assumed to have lane geometry improvements under 2030 General Plan Conditions as a result of the proposed Butterfield Boulevard connection from Tennant Avenue south to the Monterey Road/Watsonville Road intersections. The lane geometry changes are outlined below and were assumed for the Year 2030 analysis scenarios:

### Monterey Road/Watsonville Road

- Added westbound leg.
- Lane configuration change to one left-turn lane, two through lanes, and one right-turn lane in the northbound direction; one left-turn lane, two through-lanes, and one right-turn lane in the southbound direction; two left-turn lanes, one through lane, and one right-turn lane in the westbound direction; one left-turn lane, one through lane, and one shared-through-right lane in the eastbound direction.
- Signal timing modification to include protected left-turns on all approaches.

### Tennant Avenue/Butterfield Boulevard

- Added second northbound through lane, converted southbound right-turn lane to shared through/right-turn lane, and added second westbound left-turn lane.

The forecasted volumes were estimated for 2030 no project conditions. Since some existing land uses occupy the project site today, the net new vehicle trips between the current on-site land uses and the proposed land uses under the existing with project conditions were evaluated previously in this analysis. However, under the 2030 General Plan no project conditions the City's travel demand model does not include any land use assumptions for the project site beyond what exist today (i.e., at the time the General Plan was completed, the City did not anticipate that the project site would include additional development by the buildout year (2030) of the General Plan). Therefore, no trip credits were taken for land uses allowed on the site under the current General Plan designations for the 2030 General Plan no project volumes.

As outlined in the project description, the Oakwood Country School is included in the area for the City of Morgan Hill GPA and USA and would remain on site; though the school is not analyzed as part of the project description. However, the existing school of 347 students has been approved for expansion for up to 776 students under a Use Permit issued by the City of Morgan Hill in 2004. The Oakwood Country School needs no additional discretionary actions from the City to expand, so the trips associated with the potential school expansion is included under 2030 General Plan No Project and 2030 General Plan Cumulative Conditions and are not specifically the subject of the analysis.

### 2030 General Plan No Project Intersection Traffic Volume Estimates

Using the base year and future year model forecasts, weekday peak-hour intersection turning movements were developed for the nine study intersections for 2030 General Plan no project conditions. The techniques presented in National Cooperative Highway Research Program (NCHRP) Report 2552 were used to refine the raw model forecasts. This method is based on existing counts and the difference between the no project (existing) and 2030 model volumes. Further manual adjustments may be made to the resulting volumes to provide more reasonable forecasts.

AM and PM peak hour intersection turning movement forecasts volumes for the study intersections under 2030 General Plan no project conditions were used to calculate the levels of service for the nine study intersections under this scenario. The 2030 General Plan intersection improvements for the Tennant Avenue/Butterfield Boulevard and Monterey Road/Watsonville Road intersections were used as inputs for the LOS calculations. Since no roadway improvements are included in the General Plan for the remaining seven study intersections, their existing intersection lane configurations and signal timings were used. Table 4.16-9 presents the 2030 General Plan no project conditions. All nine of the study intersections are projected to operate at acceptable levels of service.

<b>Table 4.16-9: 2030 General Plan No Project Intersection Levels of Service</b>			
<b>Intersection</b>	<b>Peak Hour</b>	<b>Delay<sup>1</sup></b>	<b>LOS<sup>2</sup></b>
1. Monterey Road/West Middle Avenue*	AM	18.5	C
	PM	30.4	D
2. Monterey Road/John Wilson Way	AM	19.7	B-
	PM	10.4	B+
3. Monterey Road/Watsonville Road	AM	25.3	C
	PM	23.1	C
4. Monterey Road/Vineyard Boulevard	AM	26.9	C
	PM	28.5	C
5. Monterey Road/Tennant Avenue**	AM	26.2	C
	PM	34.8	C-
6. Tennant Avenue/Vineyard Boulevard	AM	32.3	C-
	PM	37.6	D+
7. Tennant Avenue/Butterfield Boulevard**	AM	31.6	C
	PM	33.3	C-
8. Tennant Avenue/US-101 SB Ramps**	AM	29.4	C
	PM	48.3	D
9. Tennant Avenue/US-101 NB Ramps**	AM	19.2	B-
	PM	22.2	C+
Notes: <sup>1</sup> Whole intersection weighted average control delay expressed in seconds per vehicle calculated using methods described in the 2000 HCM, with adjusted saturation flow rates to reflect Santa Clara County Conditions for signalized intersections. Total control delay for the worst movement is presented for side-street stop-controlled intersections. <sup>2</sup> LOS = Level of service. LOS calculations conducted using the TRAFFIX level of service analysis software package. * Unsignalized intersection ** LOS E threshold (all other intersections have LOS D threshold) Source: Fehr & Peers, September 2011			

In general, all of the study intersections operate at similar LOS as under existing conditions and the average delays increase for most intersections.

### 2030 General Plan with Project Traffic Volume Estimates

The net new trips from the proposed project were added to the traffic volumes from the 2030 General Plan no project conditions to estimate 2030 General Plan with project conditions.

### 2030 General Plan with Project Intersection Level of Service

The 2030 General Plan no project conditions intersection lane configurations and signal phasings/timings were combined with the peak-hour turning movement volumes for 2030 General Plan with project conditions and used as inputs for the LOS calculations. The results are presented in Table 4.16-10. All of the study intersections are projected to operate at acceptable levels of service.

Intersection	Peak Hour	Existing		2030 General Plan Plus Project			
		Delay <sup>1</sup>	LOS <sup>2</sup>	Delay <sup>1</sup>	LOS <sup>2</sup>	Δ in Crit. V/C <sup>3</sup>	Δ in Crit. Delay <sup>4</sup>
1. Monterey Road/West Middle Avenue*	AM	11.8	B	18.9	C	N/A	N/A
	PM	12.3	B	37.1	D		
2. Monterey Road/John Wilson Way	AM	16.2	B	21.5	C+	+0.463	+11.7
	PM	16.8	B	11.8	B+	+0.281	-1.3
3. Monterey Road/Watsonville Road <sup>5</sup>	AM	16.8	B	27.3	C	+0.264	+16.6
	PM	11.8	B	26.3	C	+0.334	+13.8
4. Monterey Road/Vineyard Boulevard	AM	26.6	C	27.1	C	+0.048	+1.3
	PM	28.6	C	28.9	C	+0.120	+1.5
5. Monterey Road/Tennant Avenue**	AM	24.1	C	25.9	C	+0.156	+2.9
	PM	34.5	C	34.7	C-	+0.151	+1.8
6. Tennant Avenue/Vineyard Boulevard	AM	31.5	C	33.7	C-	+0.077	+4.3
	PM	35.9	D	42.9	D	+0.089	+11.6
7. Tennant Avenue/Butterfield Boulevard**	AM	21.6	C	32.3	C-	+0.337	+8.7
	PM	26.5	C	34.1	C-	+0.094	+5.7
8. Tennant Avenue/US-101 SB Ramps**	AM	21.6	C	31.5	C	+0.337	+12.8
	PM	30.1	C	56.6	E+	+0.371	+36.1
9. Tennant Avenue/US-101 NB Ramps**	AM	17.2	B	19.4	B-	+0.155	+1.6
	PM	19.2	B	22.2	C+	+0.229	+1.5

Notes:  
<sup>1</sup> Whole intersection weighted average control delay expressed in seconds per vehicle calculated using methods described in the 2000 HCM, with adjusted saturation flow rates to reflect Santa Clara County Conditions for signalized intersections. Total control delay for the worst movement is presented for side-street stop-controlled intersections.  
<sup>2</sup> LOS = Level of service. LOS calculations conducted using the TRAFFIX level of service analysis software package.  
<sup>3</sup> Change in the critical volume-to-capacity ratio (V/C) between Existing and 2030 Current General Plan with Project Conditions.  
<sup>4</sup> Change in critical average movement delay between Existing and 2030 Current General Plan with Project Conditions.  
<sup>5</sup> Note change from existing intersection geometry and lane configuration under 2030 General Plan with Project Conditions.  
\* Unsignalized intersection  
\*\* LOS E threshold (all other intersections have LOS D threshold). Source: Fehr & Peers, September 2011.

The intersections of Monterey Road/John Wilson Way and Monterey Road/West Middle Avenue show a reduction in average delay with the addition of project traffic during the AM and PM peak-hours, respectively, which is counter-intuitive. The average delay values in the table are weighted averages. Weighted average delays will be reduced when traffic is added to a movement with a low delay. Conversely, relatively small volume increases to movements with high delays can substantially increase the weighted average delay.

#### **4.16.2.4 Cumulative 2030 Conditions**

This discussion describes the expected traffic operations under 2030 conditions with all of the proposed General Plan Amendments (GPA) in place. This scenario includes vehicle trips generated by pending GPA land uses (including the proposed GPA), as well as changes in travel patterns caused by City-proposed GPA roadway network changes. The City's travel demand forecasting model was used to estimate 2030 General Plan cumulative condition traffic volumes. The proposed GPA land use and network assumptions are briefly discussed and followed by a more detailed discussion of the resulting intersection operations.

#### **Land Use and Transportation Network General Plan Amendments**

The City's travel demand forecasting model was used to develop 2030 General Plan cumulative traffic volume estimates. The 2030 General Plan cumulative model includes all information from 2030 General Plan no project conditions, plus changes in the land uses and roadway network based on information from the nine pending GPAs. In addition to the proposed project GPA analyzed for this report, the following eight GPAs were included in the 2030 General Plan cumulative conditions' model:

1. West Hills Community Church Urban Service Area (USA): Add two parcels totaling approximately four acres into the Urban Service Area and redevelop the site with a new church assembly (sanctuary) building and two-story classroom building.
2. Peet – Trumpp USA: Add 6 acres of single family residences on the west side of Peet Road and north of Half Road into the Urban Service Area.
3. Monterey – Morgan Hill Bible Church GPA and USA: Add parcels totaling 9.48 acres into the Urban Service Area and change the land use designation from single family low to public facility. The project proposes to expand approximately 11,600 s.f. of church and school space to approximately 20,000 s.f. of the same land use.
4. Watsonville – Royal Oaks GPA and USA: Change four parcels from Single Family Medium (3-5 du/ac) to Non-Retail Commercial at the southwest corner of Watsonville Road and Monterey Road, and change a second parcel from Single Family Medium to Multi-Family Medium (14-21 du/ac) on Watsonville Road, west of Monterey Road. This application includes six parcels totaling 17.34 acres all of which are outside the city limits, but only five parcels involve a General Plan change.
5. Monterey – City of Morgan Hill GPA: This GPA includes nine parcels on 15.98 acres located adjacent to the Royal Oaks project site. The proposed general plan changes include six parcels modified from Single Family Medium to Non-Retail Commercial and two parcels

modified from Single Family Low to Non-Retail Commercial. The remaining parcel will not change designation but will be rezoned.

6. Walnut Grove/Simonsen – DeRose Applications GPA: Amend General Plan Land Use Designation from Multi-Family Low and Commercial to 100 percent Commercial. The anticipated square footage for the development will be approximately 113,500 s.f.
7. Southeast Quadrant GPA: The proposed GPA includes amending approximately 750 acres of land within a 1,300-acre area from Rural County land use designation to Sports-Recreation-Leisure, Residential Estate, Open Space, and Public Facilities. The subject area is generally bound by San Pedro Avenue to the north, Condit Road to the west, Maple Avenue to the south, and Carey Lane to the east.
8. Condit – UPC: The proposed GPA includes amending two parcels on an 18.18-acre site located on the northeast corner of the Condit Road/San Pedro Avenue intersection. The proposed general plan amendment would change zoning from general commercial to planned development (residential). Rezoning of the parcels would allow for construction of approximately 102 new single-family dwelling units (du).

The following GPA was not included in the 2030 General Plan cumulative conditions' model but is being evaluated in another Transportation Impact Analysis (TIA). Its traffic projections from that TIA were included in the analysis for this scenario.

1. Juan Hernandez GPA: The proposed GPA includes changing the General Plan designations of two vacant parcels from Campus Industrial to Commercial and changing the zoning from Campus Industrial to Service Commercial. The GPA and rezoning of the parcels would allow for construction of up to 45-unit congregate care facility, 94-bed nursing home, 6,050-square foot (s.f.) day care, 27,300 s.f. of general office buildings, 14,118 s.f. of medical office buildings, a 5,250-s.f. restaurant, and 84,000 s.f. of retail uses.

In addition to the land use changes in the pending GPAs, the 2030 General Plan cumulative analysis includes the following roadway network amendments:

1. Monterey Road narrowed to a two-lane arterial between Main Avenue and Dunne Avenue - The Monterey Road narrowing removes a northbound and southbound through lane from the intersections on Monterey Road between Main Avenue and Dunne Avenue. The purpose of this modification is to allow for wider sidewalks, increased on-street parking supply, and enhancement of the downtown area as a more walkable, bikeable, and transit-friendly environment. The actual configuration of Monterey Road is currently under evaluation and no plans have been finalized.
2. Walnut Grove Extension Realignment – The current alignment would be extended south to Laurel Road. The realignment is proposed to connect to Diana Avenue west of the currently planned extension by approximately 1,500 feet.

All other network assumptions from the 2030 General Plan no project conditions that are directly applicable to the study intersections remain in effect.



As identified above, components of the proposed project were included in the 2030 General Plan Cumulative Conditions' model. The proposed project description has changed since the model was developed. Therefore trip generation estimates were developed for the difference in trips. Those trips were then added on top of the model volumes for the analysis of this scenario.

### General Plan Cumulative Intersection Levels of Service

The results of the LOS analysis for the nine study intersections under 2030 General Plan cumulative conditions are presented in Table 4.16-11.

<b>Intersection</b>	<b>Peak Hour</b>	<b>Delay<sup>1</sup></b>	<b>LOS<sup>2</sup></b>
1. Monterey Road/West Middle Avenue*	AM	19.0	C
	PM	32.3	D
2. Monterey Road/John Wilson Way	AM	20.3	C+
	PM	11.2	B+
3. Monterey Road/Watsonville Road	AM	26.2	C
	PM	24.8	C
4. Monterey Road/Vineyard Boulevard	AM	26.9	C
	PM	28.7	C
5. Monterey Road/Tennant Avenue**	AM	26.7	C
	PM	36.3	D+
6. Tennant Avenue/Vineyard Boulevard	AM	33.6	C-
	PM	43.8	D
7. Tennant Avenue/Butterfield Boulevard**	AM	35.9	D+
	PM	37.6	D+
8. Tennant Avenue/US-101 SB Ramps**	AM	52.2	D-
	PM	78.9	E-
9. Tennant Avenue/US-101 NB Ramps**	AM	20.4	C+
	PM	23.8	C
Notes: <sup>1</sup> Whole intersection weighted average control delay expressed in seconds per vehicle calculated using methods described in the 2000 HCM, with adjusted saturation flow rates to reflect Santa Clara County Conditions for signalized intersections. Total control delay for the worst movement is presented for side-street stop-controlled intersections. <sup>2</sup> LOS = Level of service. LOS calculations conducted using the TRAFFIX level of service analysis software package. *Unsignalized Intersection ** LOS E threshold (all other intersections have LOS D threshold). Source: Fehr & Peers, September 2011.			

Based on the City of Morgan Hill's LOS standards, all of the study intersections are projected to operate at acceptable levels of service under General Plan cumulative conditions.

#### 4.16.2.5 *Traffic Hazards*

No specific development is proposed at this time. Future project-specific design plans would be reviewed by the Fire Department to assure adequate emergency access. The future project would be reviewed by the City and designed in accordance with applicable standards and policies to avoid

design feature hazards. The project site is not located within the South County Airport Influence Area and residential development at the project site would not, therefore, change air traffic patterns.

#### **4.16.3            Conclusion**

Implementation of the proposed project, in combination with other pending projects, would not result in significant impacts to the transportation system. **(Less Than Significant Impact)**

## **4.17 UTILITIES AND SERVICE SYSTEMS**

### **4.17.1 Setting**

The following discussion is based on the City of Morgan Hill's *Water System Master Plan, Sewer System Master Plan, and Storm Drainage System Master Plan* (January 2002).

#### **4.17.1.1 *Water Service***

The City of Morgan Hill provides potable water service to its residential, commercial, industrial, and institutional customers within the City limits. The City's water system facilities include 14 groundwater wells, 10 potable water storage tanks, 10 booster stations, and over 160 miles of pressured pipes ranging from two to 14 inches in diameter. The City's water distribution system meets the needs of existing customers. The City has planned and constructed water projects in conjunction with new street construction in anticipation of future growth and water needs.

There are existing 10-inch water mains in Monterey Road and Watsonville Road adjacent to the project site. The City-operated water main in Monterey Road terminates approximately 350 feet west of the eastern boundary of the Morgan Hill Bible Church site.

#### **4.17.1.2 *Sanitary Sewer System***

The City of Morgan Hill sewer collection system consists of approximately 135 miles of six-inch through 30-inch diameter sewers, and includes 15 sewage lift stations and associated force mains. The system also consists of trunk sewers, which are generally 12 inches in diameter and larger, that convey the collected wastewater flows through an outfall that continues south to the Wastewater Treatment Facility (WWTF) in Gilroy. The WWTF is jointly owned by the cities of Gilroy and Morgan Hill. The City's existing sewer collection system meets the needs of existing customers. The City has planned and constructed sewer facilities in conjunction with new street construction in anticipation of future growth and sewage needs.

There are existing 24-inch and 30-inch sanitary sewer lines in Monterey Road and a 10-inch sanitary sewer line in Watsonville Road adjacent to the project site.

#### **4.17.1.3 *Storm Drain System***

The City of Morgan Hill's storm drainage system consists of a combination of curb and gutter facilities, curb inlets, underground pipelines, and bubblers that drain into detention basins or to the nearest creek. The project site is within the West Little Llagas Creek watershed that drains to Monterey Bay.<sup>43</sup>

Currently, there are no City storm drainage pipelines or inlet structures within the project area. Stormwater flows are conveyed in the open West Little Llagas channel, culverts under Watsonville Road and Monterey Road, and in a local drainage ditch adjacent to Watsonville Road.

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<sup>43</sup> City of Morgan Hill. *Storm Drainage System Master Plan*. January 2002.

## Planned Flood Control Improvements

Future changes under the *Upper Llagas Creek Flood Protection Project* (also known as PL566) are planned for the area southwest of the Watsonville/Monterey intersection.<sup>44</sup> This project would extend an earthen channel southward onto APN 779-04-067 that would act to reroute flood waters away from Monterey Road. These modifications would significantly reduce the watershed for the reach of West Little Llagas Creek in the vicinity of Monterey Road from the currently shown 5.6 square miles in the Federal Emergency Management Agency (FEMA) Flood Insurance Study.<sup>45</sup> The stormwater infrastructure at Watsonville/Monterey would then adequately handle 100-Year flood flows from this smaller drainage area without any flooding.

A one-mile diversion channel, a portion of which would be located in APN 779-04-067 on the project site, west of Monterey Road, across Watsonville Road, John Wilson Way, and Middle Avenue is currently in the planning and design stage. The Santa Clara Valley Water District and City of Morgan Hill plan to start construction after 2015.<sup>46</sup>

### 4.17.1.4 *Solid Waste*

Recology South Valley provides solid waste and recycling services to the businesses and residents of the cities of Morgan Hill and Gilroy. Recology South Valley has contracted through 2017 with the Salinas Valley Solid Waste Authority to dispose of municipal solid waste at Johnson Canyon Sanitary Landfill. Johnson Canyon Sanitary Landfill is anticipated to reach capacity in 2043.<sup>47</sup>

### 4.17.2 Environmental Checklist and Discussion

UTILITIES AND SERVICE SYSTEMS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project: 1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1

<sup>44</sup> Santa Clara Valley Water District Website. *Upper Llagas Creek Flood Protection*. Accessed February 4, 2010. Available at: <[http://www.valleywater.org/uploadedFiles/Services/FloodProtection/Projects/UpperLlagas/Upper%20Llagas%20Creek\\_fact%20sheet\\_final.pdf?n=4702](http://www.valleywater.org/uploadedFiles/Services/FloodProtection/Projects/UpperLlagas/Upper%20Llagas%20Creek_fact%20sheet_final.pdf?n=4702)>

<sup>45</sup> MH Engineering Company. *Drainage Study: Appendix D*. December 27, 2009.

<sup>46</sup> Gilroy Dispatch. *Property Needed to Divert Flooding*. January 25, 2010. Available at: <<http://www.gilroydispatch.com/printer/article.asp?c=262654>>

<sup>47</sup> Phil Couchee, General Manager, Recology South Valley Personal Communication. February 3, 2010.

UTILITIES AND SERVICE SYSTEMS						
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
Would the project:						
2) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
3) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
7) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1

#### 4.17.2.1 *Water Supply Infrastructure*

There are existing water mains in Monterey Road and Watsonville Road. The proposed project would not require additional pipeline capacity than is currently planned for in the Water Master Plan.

#### 4.17.2.3 *Sanitary Sewer System*

The current Sanitary Sewer Master Plan for the City includes the upgrading of sanitary sewer pipelines throughout the City to current City standards. Future development proposed under the General Plan amendments and prezononings/rezonings, would occur on underutilized sites, some of which are not currently served by the City. However, future development would not require additional sewer pipeline capacity than currently planned for in the Sanitary Sewer Master Plan.

The South County Regional Wastewater Authority (SCRWA) Wastewater Treatment Plant provides service to the cities of Morgan Hill and Gilroy. The treatment plant has capacity to treat an average dry weather flow (ADWF) of 8.5 million gallons per day (mgd) and is currently permitted by the Regional Water Quality Control Board (RWQCB), Central Coast Region to treat up to 8.5 mgd. Both the cities of Gilroy and Morgan Hill have growth control systems in place which limit unexpected increases in sewage generation. 2010 ADWF for combined flows from Morgan Hill and Gilroy were approximately 6.8 mgd. Based on combined population projections for both cities, the current capacity of 8.5 mgd will be reached in approximately 2019.<sup>48</sup>

#### **4.17.2.4 Storm Drainage System**

The City's Storm Drain Master Plan does not call for any improvements to the existing storm drain system with the exception of the *Llagas Creek Flood Protection Project*. The proposed project would allow development on sites that are currently vacant or are primarily pervious which may increase stormwater runoff when these sites redevelop.

**Impact UTI-1:** Future development on the site would increase stormwater runoff, which could require the construction of new stormwater drainage facilities.  
**(Significant Impact)**

#### **4.17.2.5 Solid Waste**

The City of Morgan Hill has contracted with Recology South Valley to provide solid waste disposal and recycling service within the City. Recology South Valley would dispose of solid waste from the City at Johnson Canyon Sanitary Landfill which has a projected permitted capacity of approximately 6,923,297 cubic yards and was expected to remain open through 2040.<sup>49</sup> The proposed project would result in increased waste disposal from the project site; however, future development would be served by a landfill with adequate capacity to serve the project site.

#### **4.17.2.1 Program Mitigation and Avoidance Measures**

##### **General Plan Policies**

Many of the policies in the City's General Plan were adopted for the purpose of avoiding or mitigating potential environmental effects that could result from planned development within the City. All future development would be subject to General Plan policies, including the following, conformance with which will reduce utilities and service system impacts to a less than significant level:

- *Sewer Capacity, Water Supply and Storm Drainage Policy 20a* - Expansion of the joint Gilroy/Morgan Hill Wastewater Treatment Facility should proceed, since additional sewer capacity is a prerequisite for further urban development and urban development is most appropriately served by sanitary sewer systems. (SCJAP 6.00)

<sup>48</sup> MWH Global and Akel Engineering Group. Draft- South County Regional Wastewater Authority Wastewater Flow Projections 2011. July 2011.

<sup>49</sup> California Integrated Waste Management Board. Active Landfills Profile for Johnson Canyon Sanitary Landfill (27-AA-0005). 2008. <http://www.ciwmb.ca.gov/Profiles/Facility/Landfill/LFProfile1.asp?COID=27&FACID=27-AA-0005> Accessed: May 2008.



- *Sewer Capacity, Water Supply and Storm Drainage Policy 20c* - Ensure that the total capacity for the Gilroy/Morgan Hill Wastewater Treatment Facility, its timing for completion, and configuration are consistent with SCJAP policies for the overall growth of Morgan Hill and Gilroy.
- *Sewer Capacity, Water Supply and Storm Drainage Policy 21a* - Manage the supply and use of water more efficiently through appropriate means, such as watershed protection, percolation, conservation and reclamation. (SCJAP 7.00)
- *Sewer Capacity, Water Supply and Storm Drainage Policy 21b* - Ensure that new development does not exceed the water supply. (SCJAP 7.08)
- *Sewer Capacity, Water Supply and Storm Drainage Policy 22a* - Address issues related to flooding throughout the city.
- *Sewer Capacity, Water Supply and Storm Drainage Policy 22b* - Ensure that those residents who benefit from, as well as those who contribute to the need for, local drainage facilities pay for them. (SCJAP 13.02)

#### **City of Morgan Hill Standard Measures**

- In accordance with the City of Morgan Hill Standard Conditions of Approval, future development on the project site would prepare and submit a Storm Drainage Study to the Director of Public Works for review and approval. The Study would include calculations to determine detention and operations and demonstrate how the runoff rate from the proposed project would be less than or equal to existing conditions.

#### **4.17.3 Conclusion**

Implementation of the identified General Plan policies would reduce utilities and service systems impacts to a less than significant level. **(Less Than Significant Impact with Mitigation)**

#### 4.18 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Beneficial Impact	Information Source(s)
1) Does the project 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,6,7
2) Does the project 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)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
3) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
4) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1

**Discussion:** With the implementation of the program mitigation and avoidance measures included in the project and described in the specific sections of this report (refer to *Section 4 Environmental Setting, Checklist, and Discussion of Impacts*), the proposed project would not result in significant environmental impacts, including cumulative effects of past, current, and reasonable foreseeable development in the project vicinity.

As discussed in *Section 4.16 Transportation*, the TIA (Appendix E) included a cumulative analysis of the expected traffic operations under 2030 Conditions with all currently proposed General Plan Amendments. Under cumulative 2030 conditions, all of the study intersections are projected to operate at acceptable levels of service.

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# **Appendix A**

## **Land Evaluation and Site Assessment (LESA)**

# Land Evaluation and Site Assessment

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## **1.0 INTRODUCTION**

The Land Evaluation and Site Assessment (LESA) is a term used to define an approach for rating the relative quality of land resources based upon specific measurable features. The LESA system is a point-based approach that is composed of six different factors. Two Land Evaluation factors are based upon measures of soil resource quality. Four Site Assessment factors provide measures of a given project's size, water resource availability, surrounding agricultural lands, and surrounding protected resource lands. For a given project, each of these factors is separately rated on a 100-point scale. The factors are then weighted relative to one another and combined, resulting in a single numeric score for a given project, with a maximum attainable score of 100 points. It is this project score that becomes the basis for making a determination of a project's potential significance, based upon a range of established scoring thresholds. (Department of Conservation, 1997) Appendix G of the California Environmental Quality Act (CEQA) Guidelines identifies the California Agricultural LESA Model as an optional model to use in assessing impacts on agriculture and farmland. A LESA Model analysis was prepared for the proposed project, and the results are provided below.

## **2.0 ENVIRONMENTAL SETTING**

### **2.1 Environmental Setting and Project Characteristics**

The City proposes to expand the Urban Service Area (USA) to allow for future urban development on a 67.39-acre area, some of which is currently developed and/or located within the City of Morgan Hill but outside the USA. The project site is comprised of three sub-areas consisting of various uses, including a mushroom processing facility, the Oakwood Country School, single-family residences, commercial uses, Santa Clara Valley Water District land, and the Morgan Hill Bible Church. In order for the site to be developed/redeveloped with urban uses, the City must prezone and annex<sup>1</sup> some of the parcels, and expand the USA boundary to provide urban services to those parcels. The project is also proposing various General Plan land use designation changes (General Plan Amendments (GPAs)) and rezonings on these three sub-areas to allow for mixed use commercial and residential development, as well as the expansion of the Morgan Hill Bible Church. The proposed USA expansion, GPAs, and rezonings provide regulatory changes that guide future development of the project area, and would not result in any immediate physical construction. The proposed actions would provide the appropriate regulatory framework for future development of the parcels with urban uses as forecast in this Initial Study. Future project-specific environmental review would occur prior to any actual development on any of the parcels, with the exception of the Oakwood Country School site, where project-level CEQA review has already been completed in conjunction with the approved Use Permit.

The components of the proposed project are described in greater detail below. Table 2.0-1 provides a summary of the proposed GPAs and zoning changes.

#### **2.1.1 *Urban Service Area Expansion***

The project area is located inside the Urban Growth Boundary (UGB), but is located outside the Urban Service Area (USA) for the City of Morgan Hill.<sup>2</sup> The USA is the boundary for which

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<sup>1</sup> Although no applications for annexation have been submitted, annexations would be filed at some future point prior to the parcels coming into the city and developing with urban uses as proposed by the GPAs.

<sup>2</sup> The City's Urban Growth Boundary (UGB) is an officially adopted and mapped line dividing land to be developed from land to be protected for natural or rural uses, including agriculture. UGBs are regulatory

urban services (sewer, water, gas, garbage, etc.) are provided within the City. It is the policy of Santa Clara County that urban development can only occur within a City's USA and City limits. Some of the project parcels are within the City limit, while others are not; therefore, portions of the project area must be annexed into the City of Morgan Hill and included within the USA prior to any future development. The existing City and USA boundary runs along Watsonville Road, at the northwestern portion of the site, as shown in Figure 4. In conjunction with the inclusion of the project area within the USA and City limits, all existing County parcels require rezoning in order to be consistent with the City's existing and/or proposed land use designations.

#### **2.1.1.1 Site 1: Watsonville-Royal Oaks**

The Watsonville-Royal Oaks site includes six parcels totaling 17.34 acres, all of which are outside the City limit and USA. The site is currently developed with a mushroom processing facility. The remainder of the site is vacant land. A portion of the site is vacant land owned by Santa Clara Valley Water District for flood control purposes. Figure 4 shows the individual project site and parcels within the project area. Land use designation changes are proposed on four of the site parcels (779-04-001, 779-04-003, 779-04-004, and 779-06-056) from *Single Family Medium (SFM)* to *Non-Retail Commercial*, with rezoning to *Light Commercial-Residential (CL-R)* from County *Agriculture (A-20Ac)*. The proposed GPA is intended to accommodate mixed use residential and commercial uses on 8.98 acres of the project site. Uses allowed under *Light Commercial-Residential (CL-R)* include office, commercial, retail, restaurants, social services, public facilities, and residential uses at a density of one dwelling per 2,400 gross square feet or greater, amongst others. This zoning district is compatible with the City's General Plan Land Use designation of *Non-Retail Commercial*.

On one of the parcels (779-04-052), a General Plan Amendment (GPA) from *Single Family Medium (SFM)* to *Multi-Family Medium (MFM)*, and rezoning to *Medium-Density Residential (R3)/Planned Development (PD)* from *Agriculture (A-20Ac)* is proposed to allow for future development of a Senior Assisted Living Facility. The proposed GPA on the parcel would allow for a density of 14-21 dwelling units per acre.

The remaining parcel (779-04-067) is Santa Clara Valley Water District property adjacent to West Little Llagas Creek and will be rezoned to *Open Space (OS)* from *Agriculture (A-20Ac)* to allow for consistency with the General Plan *Open Space (OS)* designation. Any future physical changes to the property undertaken by the SCVWD would be subject to environmental review by the District as Lead Agency. The proposed GPA and rezoning are not anticipated to result in any foreseeable physical changes; rather, they reflect the current use of the property.

Parcels 779-04-056 and 779-04-052 include a *Planned Development (PD)* which allows for flexibility in the zoning district development standards.

Anticipated future development on the 17.34 acre site would include 100 multi-family units, 180 senior units, and 6,000 square feet of retail space.

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tools, often designated for 20 or more years to provide greater certainty for both development and conservation goals. The Urban Services Area (USA) is the area within the UGB where utilities such as gas, water, sewer, and electricity, and public services such as police, fire, schools, and parks and recreation are and will be provided.

### **2.1.1.2 Site 2: Monterey-City of Morgan Hill**

The second project site includes nine parcels on 40.57 acres, of which seven parcels are located within the City limit but outside the USA. The site is currently developed with the private Oakwood Country School, two single family residences, and a few small businesses.

On six of the parcels (779-04-005, 779-04-030, 779-04-032, 779-04-033, 779-04-074, and 779-04-072) a GPA from *Single Family Medium (SFM)* to *Non-Retail Commercial*, and rezoning to *Light Commercial-Residential (CL-R)* from *RE (100,000)* is proposed. A GPA from *Single Family Low (SFL)* to *Non-Retail Commercial*, and a rezoning to *Light Commercial-Residential (CL-R)* from *County Agriculture (A-20Ac)* is proposed on two of the parcels (779-04-010 and 779-04-015). The proposed rezoning to *Light Commercial-Residential (CL-R)* is intended to accommodate mixed use residential and commercial uses on 15.98 acres of the project site. This zoning district is compatible with the City's General Plan Land Use designation of *Non-Retail Commercial*.

The Oakwood Country School is located on the remaining parcel (779-04-073). The City of Morgan Hill GP designation of *Single Family Medium (SFM)* will remain the same on the school site, but a zoning change from *RE(100,000)* to *Single Family District R1(9,000)* is proposed. The existing school of 347 students has been approved for expansion for up to 776 students under a Use Permit issued by the City of Morgan Hill in 2004. The Oakwood Country School needs no additional discretionary actions from the City to expand, so this Initial Study acknowledges the existing valid entitlements for that site and the physical changes that can occur to the property as 'background' conditions, but they are not specifically the subject of the Initial Study, save for discussion of cumulative impacts. The purpose of rezoning the school site is to have the zoning district in conformance with the General Plan land use designation for the site, but it will not authorize any additional development that cannot already occur under the current zoning and approved Use Permit.

No specific development is proposed by the project; the project is only the GPA, rezoning, and USA adjustment. For the purposes of this Initial Study, a likely development scenario for the site is used to evaluate the environmental impacts that might reasonably be anticipated to result from future development under the proposed General Plan land use designation (i.e., *Non-Retail Commercial*), and zoning (i.e., *Light Commercial-Residential*). The likely development scenario for the project site was formulated based on the existing development in the project area and existing development patterns in the City of Morgan Hill on sites similar to the project site. The likely development scenario for the project site includes the following for the 15.98 acres of the site not occupied by the Oakwood Country School: 64,600 square feet of commercial and personal services, 19,400 square feet of extensive retail, 11,000 square feet of office, and 60 multi-family dwelling units.

### **2.1.1.3 Site 3: Monterey-Morgan Hill Bible Church**

The Monterey-Morgan Hill Bible Church project site includes two parcels totaling 9.48 acres outside the City limit and USA. The site is currently developed with the Morgan Hill Bible Church facility, including surface parking, a sports field, baseball diamond, and volleyball courts. Rezoning of both of the parcels (779-04-016 and 779-04-061) is proposed. The project also includes a GPA from *Single Family Low (SFL)* to *Public Facility (PF)*, and rezoning to *Public Facility (PF)* from *County Agriculture (A-20Ac)* for both parcels. The proposed GPA from *Single Family Low (SFL)* to *Public Facility (PF)* is intended to bring the existing Morgan Hill Bible Church facility into conformance with the General Plan land use designation, and



accommodate future growth of the church. Anticipated future development would include redeveloping the existing 11,600 square foot (s.f.) church and classrooms with approximately 20,000 s.f. of the same use. The church is a conditional use under the *Public Facilities District* and would maintain consistency with the proposed General Plan Amendment for the site.

### 3.0 LESA EVALUATION

The site was evaluated using the California LESA Model to rate the quality and availability of agricultural resources for the proposed project site and to identify whether the proposed project would meet the threshold criteria as a significant impact to Agricultural Resources under the CEQA Guidelines. The LESA evaluates land use and site assessment factors to identify if the project would result in a significant agricultural resources impact. The factors are evaluated in the following sections.

#### 3.1 Land Evaluation

The Land Evaluation portion of the LESA Model focuses on two main components that are separately rated: the Land Capability Classification and the Storie Index.

**1. The Land Capability Classification Rating:** The Land Capability Classification (LCC) indicates the suitability of soils for most kinds of crops. Soils are rated from Class 1 to Class 8, with soils having the fewest limitations receiving the highest rating of Class 1.

*Capability classes*, the broadest groups, are designated by the numbers 1 through 8. The numbers indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows:

- Class 1 soils have slight limitations that restrict their use.
- Class 2 soils have moderate limitations that restrict the choice of plants or that require moderate conservation practices.
- Class 3 soils have severe limitations that restrict the choice of plants or that require special conservation practices, or both.
- Class 4 soils have very severe limitations that restrict the choice of plants or that require very careful management, or both.
- Class 5 soils are subject to little or no erosion but have other limitations, impractical to remove, that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.
- Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.
- Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.
- Class 8 soils and miscellaneous areas have limitations that preclude commercial plant production and that restrict their use to recreational purposes, wildlife habitat, watershed, or esthetic purposes.

*Capability subclasses* are soil groups within one class. They are designated by adding a small letter, *e*, *w*, *s*, or *c*, to the class numeral, for example, 2e. The letter *e* shows that the main hazard is the risk of erosion unless close-growing plant cover is maintained; *w* shows that water in or on

the soil interferes with plant growth or cultivation (in some soils the wetness can be partly corrected by artificial drainage); *s* shows that the soil is limited mainly because it is shallow, droughty, or stony; and *c*, used in only some parts of the United States, shows that the chief limitation is climate that is very cold or very dry.

In class 1 there are no subclasses because the soils of this class have few limitations. Class 5 contains only the subclasses indicated by *w*, *s*, or *c* because the soils in class 5 are subject to little or no erosion.

**2. The Storie Index Rating:** The Storie Index provides a numeric rating (based upon a 100 point scale) of the relative degree of suitability or value of a given soil for intensive agriculture use. This rating is based upon soil characteristics only.

The United States Department of Agriculture survey found two soil types present on the Project Site: the Pleasanton gravelly loam, 0 to 2 percent slopes (map symbol PpA), and San Ysidro loam, 0 to 2 percent slopes (map symbol SdA). Table 1 details the varieties of soils found on the project site, along with their Capability Class rating.

**Land Evaluation Discussion.** The USDA has not completed a Storie Index rating for the soils covering the subject site. In a situation where only the USDA LCC information is available from a given published soil survey, it is possible to adapt the Land Evaluation by relying solely upon the LCC rating. Under this scenario the LCC rating will account for 50 percent of the overall LESA factor weighting.

**TABLE 1  
Soil Suitability**

Map Symbol	Map Unit	Capability Class
PpA	Pleasanton gravelly loam, 0 to 2% slopes	2s
SdA	San Ysidro loam, 0 to 2% slopes	3s

The LESA Model assigns ratings to each land capability class and multiplies that number by the proportion of the project area that contains each soil class to find the Land Capability Classification score. Table 2 provides a summary of the Land Evaluation (LE) score.

**TABLE 2  
Land Capability Classification (LCC) Score**

Soils	Acres	Proportion of site	LCC	LCC rating	LCC score
PpA	4.275	57%	2s	80	45.6
SdA	3.225	43%	3s	60	25.8
<b>Totals</b>	<b>7.5</b>	<b>100%</b>			<b>71.4</b>

The final LE and Site Assessment (SA) score is entered into the Final LESA Score Sheet as shown in Table 6, later in this report.

### 3.2 Site Assessment Factors

The California LESA Model includes four Site Assessment factors that are separately rated and include:

1. Project Size Rating
2. Water Resources Availability Rating
3. Surrounding Agricultural Land Rating
4. Surrounding Protected Resource Land Rating

#### A. Project Size Rating

The project size rating recognizes the role that farm size plays in the viability of commercial agricultural operations. In general, larger farming operations can provide greater flexibility in farm management and marketing decisions. Larger operations tend to have greater impacts upon the local economy through direct employment, as well as impacts upon supporting industries and food processing industries (California Department of Conservation, 1997).

In terms of agricultural productivity, the size of the farming operation can be considered not just from its total acreage, but the acreage of different quality lands that comprise the operation. Lands with higher quality soils lend themselves to greater management and cropping flexibility and have the potential to provide greater economic return per acre unit. For a given project, instead of relying upon a single acreage figure in the Project Size rating, the project is divided into two acreage groupings based upon the LCC ratings that were previously determined in the LE analysis. Under the Project Size rating, relatively fewer acres of high quality soils are required to achieve a maximum Project Size score. Alternatively, a maximum score on lesser quality soils could also achieve a maximum Project Size score. Table 3 summarizes the Project Size score for the proposed project.

**TABLE 3**  
**Project Size Score**

	<b>LCC Class 1-2</b>	<b>LCC Class 3</b>
<b>Total acres</b>	<b>4.2275</b>	<b>3.225</b>
<b>Project Size Scores</b>	<b>0</b>	<b>0</b>
<b>Highest Project Size Score</b>	<b>0</b>	<b>0</b>

Note: Zero points are scored for sites less than 10 acres with Class 1, 2, or 3 soils.

#### B. Water Resources Availability Rating

The Water Resource Availability Rating is based upon identifying the various water sources that may supply a given property, and then determining whether different restrictions in supply are likely to take place in years that are characterized as being periods of drought and non-drought.

The project is completely served by well water. In the Morgan Hill area, all agriculture uses groundwater. The aquifer is managed by the Santa Clara Valley Water District, groundwater is generally available and there are few restrictions on its beneficial use. The proposed project was given the highest Water Resource Availability Rating given the consistent water delivery provided by IID to the project site. The project has no physical or economic restrictions that may

alter water resource supply during either drought or non-drought years. Table 4 summarizes the Water Resources Availability score.

**Table 4  
Water Resource Availability**

<b>Project Portion</b>	<b>Water Source</b>	<b>Proportion of Project Area</b>	<b>Water Availability Score</b>	<b>Weighted Availability Score</b>
1	Well	100%	100	100
<b>Total Water Resource Score</b>				<b>100</b>

**C. Surrounding Agricultural Land Rating**

The Surrounding Agricultural Land Rating is designed to provide a measurement of the level of agricultural land use for lands within the Zone of Influence (ZOI) of the subject parcel. The definition of a “Zone of Influence” is the amount of surrounding lands up to a minimum of one-quarter mile from the project boundary. Parcels that are intersected by the 0.25-mile buffer are included in their entirety. The 7.5 acre subject site has a Zone of Influence that encompasses 280 acres. Figure 2 depicts the distribution and amount of land used for urban and agricultural uses within 0.25 mile of the project site. Lands used for agricultural production are located adjacent to the project site to the south and southwest.

Based upon the percentage of agricultural land in the ZOI, the project site is assigned a Surrounding Agricultural Land score. The LESA Model rates the potential significance of the conversion of an agricultural parcel that has a large proportion of surrounding land in agricultural production more highly than one that has a relatively small percentage of surrounding land in agricultural production (California Department of Conservation, 1997).

Within the project site’s Zone of Influence, 78.4 acres are in agricultural production, or 28% of the surrounding land area. Given this small percentage, the Surrounding Agricultural Land Score for the project site is (0) zero, as indicated in Table 5 below.

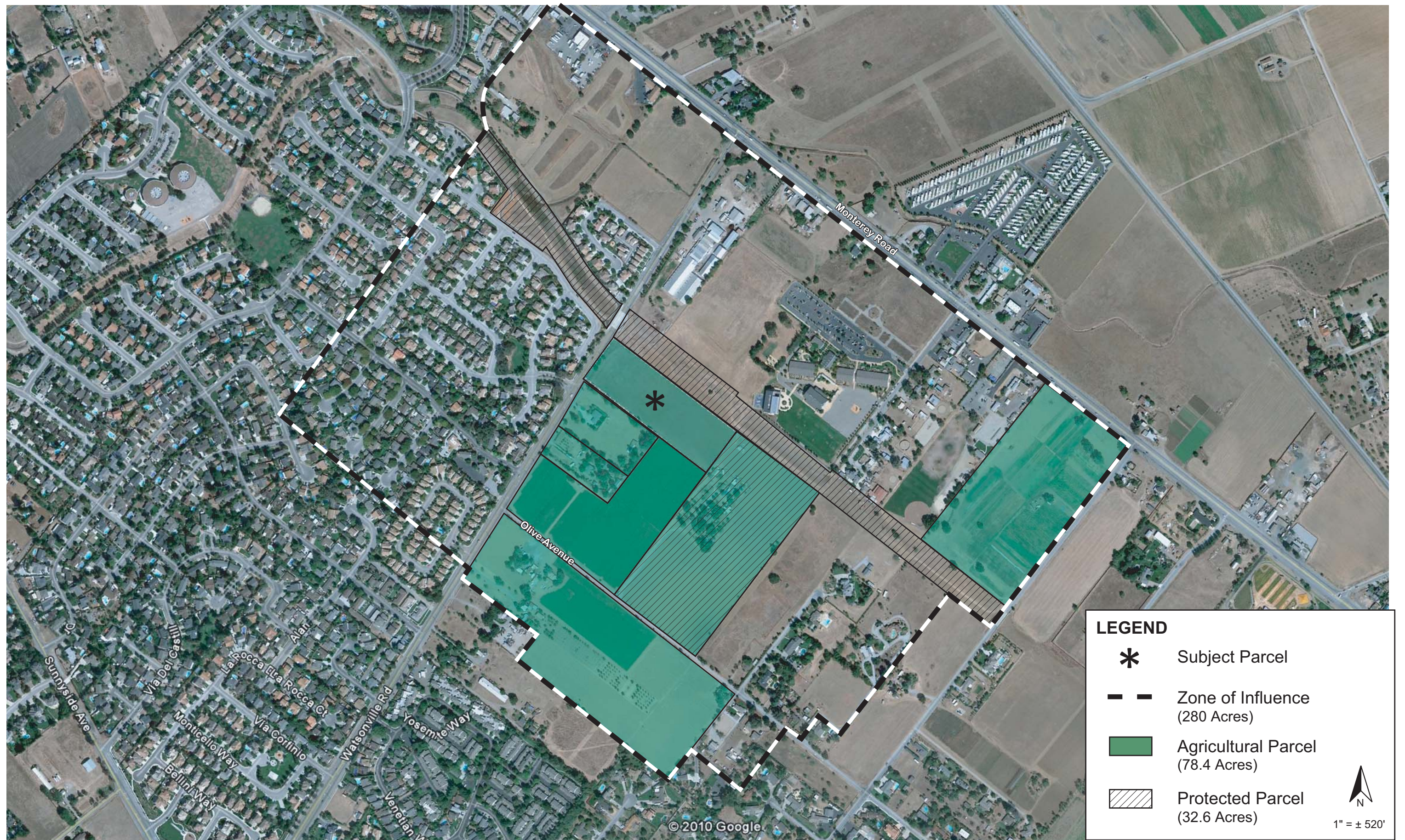
**Table 5  
Surrounding Agricultural Lands**

<b>Total Acreage Within Zone of Influence</b>	<b>Acres in Agricultural Production</b>	<b>Acres of Protected Resource Land</b>	<b>Percent in Agriculture</b>	<b>Percent Protected Resource Land</b>	<b>Surrounding Agricultural Lands Score</b>	<b>Surrounding Protected Resource Land Score</b>
280	78.4	32.6	28%	12%	<b>0</b>	<b>0</b>

**D. Surrounding Protected Resource Land Rating**

The Surrounding Protected Resource Land Rating is essentially an extension of the Surrounding Agricultural Land Rating, and is scored in a similar manner. Protected resource lands are those





SURROUNDING LAND USES

FIGURE 1



lands with long-term use restrictions that are compatible with or supportive of agricultural uses of land. Included among them are the following:

- Williamson Act contracted land;
- Publicly owned lands maintained as park, forest, or watershed resources; and
- Lands with agricultural, wildlife habitat, open space, or other natural resource easements that restrict the conversion of such land to urban or industrial uses.

#### **Williamson Act**

The California Land Conservation Act (Williamson Act) of 1965 is the state's principal policy for the "preservation of a maximum amount of the limited supply of agricultural land" in the state (Government Code Section 51220). The purpose of the Williamson Act is to preserve agricultural and open space lands by discouraging premature and unnecessary conversion to urban uses. The Act creates an arrangement whereby private landowners' contract with counties and cities to voluntarily restrict their land to agricultural and compatible open space uses for a minimum of 10 years. In return for this guarantee by landowners, the government jurisdiction assesses taxes based on the agricultural value of the land rather than the market value, which typically results in a substantial reduction in taxes. The project site is not under a Williamson Act contract (California Department of Conservation 2004).

There are only two protected resources located adjacent to or within 0.25 miles of the proposed project site. The SCVWD owns a flood control channel (APN 779-04-062, -067, -069, -071, APN 767-23-019, -023, -024, collectively 13.8 acres), and one privately owned parcel (APN 779-04-068, 18.8 acres) is under a Williamson Act contract. Therefore, as indicated in Table 5 above, 32.6 acres of surrounding lands are protected resources, 12% of the total surrounding lands in the project site's Zone of Influence. Therefore, the Surrounding Protected Resource Land Rating score is (0) zero.

#### **4.0 SUMMARY**

The LESA Model is weighted so that half of the total LESA score of a given project is derived from the LE and half from the SA. As shown in Table 6, the LE subscore is **35.7**, while the SA subscore is **15**. The final LESA score is **50.7**. As shown in Table 7, a final LESA score between 40 and 59 is considered significant only if LE or SA subscores are each greater than 20 points. Therefore, with the SA subscore below 20, the project is considered to have a less than significant impact on agricultural resources.

**TABLE 6**  
**Final LESA Score Sheet Summary**

	<b>Factor Rating (0-100)</b>	<b>Factor Weighting (total =1)</b>	<b>Weighted Factor Rating</b>
<b>Land Evaluation (LE)</b>			
1. Land Capability Classification (LCC Rating)	71.4	0.5	35.7
2. Storie Index Rating	N/A	0	0
<i>Land Evaluation Subscore</i>			<b>35.7</b>
<b>Site Assessment (SA)</b>			
1. Project Size Rating	0	0.15	0
2. Water Resource Availability Rating	100	0.15	15
3. Surrounding Agricultural Lands Rating	0	0.15	0
4. Surrounding Protected Resource Lands Rating	0	0.05	0
<i>Site Assessment Subscore</i>			<b>15</b>
		<b>TOTAL</b>	<b>50.7</b>

Source: California Department of Conservation, 1997

As explained in the earlier discussion (pg.3) concerning the Land Evaluation scoring, the USDA/NRCS has not completed a Storie Index rating for the soils covering the subject site, and therefore the LE score has been adjusted to reflect the LCC rating as 50% of the total score. The absence of a Storie Index rating has not affected the overall outcome for this site. As indicated by Table 6, the significance of the site is dependent upon the Site Assessment (SA) portion of the LESA score. If a Storie Index rating was available for the site, and the site scored the maximum possible rating of 100 points, the revised LE score would instead be 42.85  $[(71.4 \times 0.25) + (100 \times 0.25) = 42.85]$ . The adjusted LE+SA total would then be 57.85  $(42.85+15= 57.85)$ , in which case the SA score of less than 20 would continue to determine the scoring decision of 'less than significant' per Table 7 below.

**TABLE 7.**  
**LESA Scoring Thresholds**

<b>Total LESA Score</b>	<b>Scoring Decision</b>
0 to 39 Points	Not Considered Significant
40 to 59 Points	Considered Significant <u>only</u> if LE and SA subscores are each greater than or equal to 20 points.
60 to 79 Points	Considered Significant <u>unless</u> either LE or SA subscore is less than 20 points.
80 to 100 Points	Considered Significant

Source: California Department of Conservation, 1997



February 4, 2013

Norman E. Matteoni  
Peggy M. O'Laughlin  
Bradley M. Matteoni  
Barton G. Hechtman  
Gerry Houlihan

Leslie Little  
Assistant City Manager  
City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, CA 95037-4128

**Re:       *Annexation of Royal Oaks Property;  
              Watsonville Road & Monterey Road***

Dear Leslie,

The Royal Oaks property will be considered for annexation by LAFCO at its April 2013 meeting. It is my understanding that the LAFCO staff is suggesting that mitigation for loss of agricultural lands is required regarding Royal Oaks' southerly 7.5 acre parcel, and has requested that the City address that issue. This letter is intended to provide the City with information to utilize in responding to LAFCO's inquiry.

Legal Overview

Annexation is a type of land-use approval, and like most land use approvals, conditions can be imposed on an annexation. However, both federal and state constitutional law impose limitations on the nature and extent of the conditions that can lawfully be imposed: the conditions must be rationally related to an impact caused by the proposed project, and must be roughly proportional to that impact. The California Environmental Quality Act (CEQA) has parallel provisions whereby mitigation measures are required to be imposed to address project impacts, but only where those impacts are determined to be "significant". These state and federal laws apply to the question of whether or not mitigation is required under the theory of loss of agricultural lands for Royal Oaks' 7.5 acre parcel to be annexed into the City of Morgan Hill.

The Property

The 7.5 acre parcel (the "Property") has not been farmed in more than 10 years and has not been irrigated in that time. It does not have a currently available source of water. There is a residential subdivision directly across Watsonville Road to the northwest, a single family home to



the southwest, a water district drainage channel which soon will be constructed along its northeast border, and the Oakwood School across that drainage channel to the northeast. For many years, the Property has been used for storage of spent mushroom substrate from the mushroom operation occurring on Royal Oaks' northerly parcel.

#### Application of LAFCO Agricultural Mitigation Policies

LAFCO's Agricultural Mitigation Policies, adopted April 4, 2007, require agricultural mitigation when an annexation application would result in a loss of "prime agricultural lands". Policy 6 defines "prime agricultural lands" as those lands which meet any of five different qualifications. As described below, the Property does not meet any one of those five qualifications.

##### a. Class I or II Land that is Feasibly Irrigateable.

The LESA determined that 4.275 acres of the Property were rated Class II with the remainder being Class III. As the land is not irrigated, it would be necessary to install a well and irrigation piping to make the land farmable.

Attached are estimates from Maier & Dougherty for a 200 foot deep well and pump for \$24,975.00. Costs to bring electricity to the pump, including the PG&E fees, would add another \$5,000.00. So Royal Oaks' cost to provide irrigation to the Property would be \$30,000.00 plus the cost of the irrigation piping, assuming that sufficient water could be found at a depth of 200 feet.

Also attached find a letter from Joseph Aiello of Uesugi Farms, Inc., which currently farms the land to the south of the Property, stating that the rent he pays to farm that land is \$235.00 per acre per year ( $4,000 \div 17$ ). Applying that figure to the Property, Royal Oaks would receive \$1000.00 per year in rent for the Class II soil area, or \$1,750.00 per year if the farmer were willing to rent the entire 7.5 acre property. At \$1,750.00 per year, it would take Royal Oaks 17 years just to recover its \$30,000.00 investment in the well and pump. That does not provide a reasonable return on investment in any kind of business even without considering annual property taxes or the cost of the irrigation piping. Consequently, it is clear that it is not economically feasible to provide irrigation for the Property.<sup>1</sup> Therefore the Property does not constitute "prime agricultural land" under this LAFCO definition.

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<sup>1</sup> The "feasibility" of irrigation clearly refers to economic feasibility. Irrigation will virtually always be physically feasible even in the most remote and driest places. The question is always whether the

b. Storie Index Rating of 80-100

As recognized on page 6 of the LESA, Storie Index Ratings are prepared only by the USDA, and the USDA has not completed a Storie Index Rating for the Property. In the absence of this rating by the USDA, there is no evidence that the land qualifies for a rating of 80-100.<sup>2</sup>

c. Land Supporting Livestock.

The Property does not and has not supported livestock, so it does not qualify as prime agricultural land under this LAFCO definition.

d. Land Planted with Fruit, Nut-Bearing Trees, etc. with a Non-Bearing Period of Less Than Five Years.

The land is not planted with any crop, and hence does not meet this definition.

e. Land That Has Generated \$400 Per Acre from Plant Products in Three of the Last Five Years.

As the Property has not been planted in the last 10 years, it does not meet this definition of prime agricultural land.

Thus, the Property does not meet any of the five LAFCO definitions of prime agricultural land. That being the case, no mitigation under the LAFCO policies is required because LAFCO's mitigation requirements only apply to the conversion of prime agricultural lands.

Morgan Hill's Agricultural Mitigation Policies

Morgan Hill does not have adopted agricultural policies, though it has prepared a public review draft of its Agricultural Policies and Implementation Program, last revised 12/22/11. Though technically not required in order to address LAFCO's inquiry, the Property would not meet the definition of prime farmland stated

---

revenue generated by the irrigated plants will be sufficient to provide a reasonable return for the cost invested in the irrigation system. That is an economic feasibility analysis.

<sup>2</sup> The LESA suggests that it would not qualify if the Storie Index were performed. As indicated in the LESA at page 6, the USDA has provided Land Capability Classification (LCC) information which determined that the LCC rating for the Class II portion of the Property is 80 and for the Class III portion of the Property is 60. This results in an overall LCC rating for the 7.5 acre Property of just over 70.

in Morgan Hill's draft Agricultural Policies. "Prime farmland" is defined on page three of the draft document. In order to qualify, the land "must have been used for irrigated agricultural production at some time during the four years prior to the mapping date." Here, because the Property has not been used for irrigated farming, it does not qualify as "prime farmland" under Morgan Hill's draft policies.<sup>3</sup>

### Other Considerations

Though not specifically identified in the LAFCO Agricultural Mitigation Policies, the LESA format is widely used and accepted throughout California, and the LESA prepared for the Property cannot reasonably be ignored by LAFCO. That LESA concluded that the loss of the Property as farmland is "less than significant," and would still be less than significant if a Storie Index rating was available (LESA at page 11). As stated above, where the impact of a project is less than significant, it would violate constitutional law and CEQA to require mitigation.

Also missing from the LAFCO Agricultural Mitigation Policies is any consideration of practical limitations associated with farming a particular piece of land. For example there is no place in the LAFCO analysis to factor in the amount of land that is realistically farmable. The Property has less than 4.3 acres of farmable Class II soil. A portion of that land cannot practically be farmed in order to provide a setback to the adjacent canal that the Water District will be constructing, and an additional portion of that land would be needed for interior farm roads. Thus the actual farmable area may be closer to 3.5 acres. As recognized in the LESA, as the area that can be devoted to farming gets smaller, farming becomes less feasible. Another factor that LAFCO Policies do not consider is conflicting adjacent uses of property. The Property has residential uses on two sides and a school in close proximity. These uses have obvious effects on application of pesticide, soil amendments and a variety of farming activities that are frequently found to be nuisances by non-farming neighbors.

### Conclusion

The 7.5 acre Property does not meet any of the five definitions for "prime agricultural land" contained in the LAFCO Agricultural Mitigation Policies. Nor would it qualify as "prime farmland" under Morgan Hill's draft Agricultural Policies. Because the Property does not constitute prime farmland, the loss of that property for future farming does not and cannot constitute a significant impact. In the absence of a significant impact, any requirement to mitigate that loss would violate

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<sup>3</sup> For similar reasons, the Property would not qualify as "unique farmland" or "farmland of statewide importance" under Morgan Hill's draft policies.

constitutional law and CEQA. Here, Royal Oaks cannot legally be required to provide mitigation for the loss of this non-prime farmland.

Please let us know if you require any additional information in order to respond to LAFCO's inquiry.

Very truly yours,



BARTON G. HECHTMAN

BGH:cab  
Attachments

cc: Don Hordness  
Rocke Garcia

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---

**Royal Oaks Annex**

**South Morgan Hill**

**408-968-9409**

**1-25-13**

**PROPOSAL**

**Proposal submitted to: Robert at Royal Oaks Mushroom**

**Jobsite: South Morgan Hill**

**Estimate for 200 foot 8 inch P.V.C. Well**

<b>Move in and set up</b>	<b>\$ 1,875.00</b>
<b>Drill Test hole to 200'</b>	<b>4,400.00</b>
<b>Finish well 200' with 8" PVC casing, sand or gravel pack, and develop with air</b>	<b>5,400.00</b>
<b>Estimated sanitary seal to 100'</b>	<b>3,300.00</b>

**TOTAL: \$ 14,975.00**

**Permit Fee to be paid by customer (\$986.00) S.C.V.W.D. Permit \$330.00**

**E-Logg (if required or requested is \$1,500.00)**

**If a registered Geologist is required, customer is responsible for all costs**

**If water haul is needed, \$1,000.00 plus cost of water if bought**

**Contractor is not responsible for site clean up or damages to property(s)**

**Contractor does not guarantee quality or quantity of water**

**\*If surface pipe is needed \$185.00 per foot (depth varies)**

**Customer responsible for well closing costs in the event of a dry hole.**

**WE PROPOSE hereby to furnish material and labor-complete in accordance with above**

**Specifications for the sum of: Fourteen Thousand Nine Hundred Seventy Five dollars and  
no cents. \$14,975.00. Payment to be made as follows: 1/3 down \$5,000.00 Balance due upon  
completion.**

***Authorized Signature and Acceptance of Proposal*** \_\_\_\_\_

***Date*** \_\_\_\_\_

---

**This Estimate is valid for 30 days. Prices subject to change due to unforeseen conditions or changes.  
Customer will be promptly notified if any such event occurs.**



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---

**Royal Oaks Annex  
South Morgan Hill  
Robert: 408-968-9409  
1-25-13**

**\*\*\*\*\*THIS IS AN ESTIMATE ONLY\*\*\*\*\***

**ESTIMATE SHEET**

1-	6T10-155 230 volt Berkeley Submersible turbine outfitted with Hitachi motor	\$ 3,312.00
168'-	3" Black T&C pipe and down hole check valve	\$ 1,414.00
168'-	#8 Flat jacketed submersible cable	\$ 400.00
	Well head assembly	\$ 150.00
1-	Siemens Size 1 ¼ 10 H.P. Pump panel	\$ 740.00
	Splice kit, tape and flow inducing sleeve	\$ 120.00
	25 foot service pole and electrical hardware for 100 amp 3 phase service	\$ 920.00
	Concrete and material for 3x3 slab around well	\$ 75.00
	Misc. installation material	\$ 200.00
		<b>Estimated Sub-Total \$ 7,331.00</b>
		<b>Estimated 3% Sales Tax \$ 219.93</b>
		<b>Estimated Sub-Total \$7,550.93</b>
	<b>Estimated labor to install well pump, 100 amp 4 wire three phase</b>	
	<b>240 volt service and form and pour 3x3 cement pad around well.</b>	<b>\$2,450.00</b>
		<b>Estimated Total \$10,000.93</b>

**\*\*\*Wiring service permit by owner\*\*\***

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This Estimate is valid for 30 days. Prices subject to change due to unforeseen conditions or changes.  
Customer will be promptly notified if any such event occurs.



*Uesugi Farms, Inc.*

1020 State Highway 25  
Gilroy, CA 95020-8074

OFFICE  
(408) 842-1294

FAX  
(408) 842-1326

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Grower • Packer • Shipper

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January 30, 2013

City of Morgan Hill  
Morgan Hill, Ca.

Re: Annexation of Royal Oaks Mushrooms

To Whom It May Concern:

We support the annexation of the Royal Oaks Mushroom plant into the City of Morgan Hill.

We are a local grower that farms in five different areas to include Mexico and southern California areas and up north as far as Brentwood. We grow a variety of crops which include peppers, strawberries sweet corn, cherries, Chinese cabbage, pumpkins and dry beans.

Almost all of our farming takes place out of the Morgan Hill area. We farm 17 acres at the Mosegard property to the west of the proposed annexation. It is only from a long time relationship that we continue to farm and maintain that property.

The total land rent we pay is less than \$4,000.00, which is less than the property taxes incurred on the parcel. Land rent in a prominent farming area in south Gilroy would go for twice or three times that amount due to being more suitable to agricultural operations.

Additionally, farming operations in an area adjacent to residential development do not mix very well. We have had to modify our normal cultural practices that are adjacent to residential areas with pesticide applications, noise and dust control, which have all added costs to our operation that result in a loss in profitability.

Sincerely,

Joseph Aiello  
President

JA/dz



March 29, 2013

## **MEMORANDUM**

**TO:** LAFCO COMMISSIONERS  
**FROM:** MALA SUBRAMANIAN, GENERAL COUNSEL  
**RE:** PRIME AGRICULTURAL LAND AND ECONOMIC FEASIBILITY

### **Background**

There has been a question raised as to whether a portion of a 7.5 acre parcel (APN 779-04-052) is considered prime agricultural land as defined by the Cortese-Knox-Hertzberg Act. "Prime agricultural land" is defined as follows:

An area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.

(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years. (Gov. Code § 56064)

## **Analysis**

Here, only the first qualification is applicable. The property is not irrigated, but qualifies for rating as class II in the USDA Natural Resources Conservation Service land use capability classification. Whether irrigation is feasible is governed by the definition of feasibility in Government Code section 56038.5, which is “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological factors.” Only economic feasibility is relevant because irrigation of the land is not impeded by legal, social or technological factors.

The definition of “feasible” under Government Code section 56038.5 is identical to the definition under the California Environmental Quality Act (“CEQA”). Furthermore, as part of Growth within Boundaries, the Commission provided that its intent was for the definition of feasible to be construed consistent with CEQA case law. Therefore, we reviewed relevant CEQA case law to determine what information is needed to determine if it is economically feasible to irrigate the property. For CEQA purposes, feasibility is defined to allow a lead agency to consider alternatives or mitigation measures to the project for purposes of environmental review. (Pub. Res. Code, § 21081(a)(3); 14 Cal. Code Regs., § 15091(c)(3) (“State CEQA Guidelines”).)

### **A. Economic Feasibility**

Findings of economic infeasibility must be supported by relevant economic evidence, which includes costs estimates of income and expenditures, profits, and economic benefits. (See *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 601; *County of San Diego v. Grossmont Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 108; *Citizens of Goleta Valley .v Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181-1182; *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322, 326)

Evidence that the cost of an alternative is significantly more than the cost of the project can provide a basis for a finding that the alternative is economically infeasible. (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 692 [detailed reports describing specific cost of various historic preservation alternatives were sufficient to support findings that alternatives were infeasible]; *City of Fremont v. San Francisco Bay Area Rapid Transit Dist.* (1995) 34 Cal.App.4th 1780, 1787 [evidence that alternative would cost \$60 million more than proposed project was sufficient to support finding that alternative was infeasible].)

To determine an alternative’s feasibility, “[the] question is not whether [the lead agency] can afford the proposed alternative, but whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a reasonably prudent property owner would not proceed with the [alternative].” (*Uphold Our Heritage, supra*, 147 Cal.App.4th at 600 [emphasis added].) “The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it

impractical to proceed with the project.” (*Citizens of Goleta Valley, supra*, 197 Cal.App.3d at 1181 [emphasis added].)

CEQA utilizes “feasibility” to assess project alternatives or mitigation measures. As the cases above demonstrate, courts require that an economic infeasibility determination be supported by detailed costs estimates that compare the cost of the proposed project with the cost of the alternative. And then the cost difference must be “sufficiently severe” for the alternative to be considered infeasible. Here, the Commission must consider whether irrigation is feasible compared to keeping the property in its present unirrigated state.

In *City of Fremont v. San Francisco Bay Area Rapid Transit District, supra*, 34 Cal.App.4th 1780, 1785, BART considered a subway alternative to a proposed aerial structure extension through the City of Fremont. The court found BART’s determination that the subway alternative was economically infeasible to be sufficient where the alternative would cost an additional \$60 million and require the acquisition of a right-of-way. (*Id.* at 1787-1788.) This determination was supported by tables of comparative cost data. (*Id.*)

In *Uphold Our Heritage, supra*, 147 Cal.App.4th 587, the Town of Woodside issued a permit authorizing the demolition of a mansion of historic significance to construct a smaller single-family residence. Various restoration alternatives were said to be economically infeasible based on statements that restoration would cost between \$4.9 million and \$10 million and, according to a contractor, that the cost would be “incredible.” (*Id.* at 598.) However, this was insufficient to support an infeasibility determination because, although restoration would be expensive, the cost as compared to the cost of building the single-family home was not shown to be sufficiently severe. (*Id.* at 599-600.)

**B. The Evidence Does Not Demonstrate That the Cost of Irrigated Land At Issue Is “Sufficiently Severe As to Render It Impractical”**

The evidence presented by the landowner here demonstrates that the annual costs of maintaining the land in its present unirrigated state are as follows: \$1,500 for maintenance activities; \$16,180 in real property taxes; \$3,000 in liability insurance payments; and interest payments of \$72,000 on a loan for the purchase of the parcel. The landowner derives approximately \$2,500 per year in revenue from the sale of mushroom compost stored on the site.

The evidence presented by the landowner also demonstrates that the cost of irrigation would be approximately \$30,000 in order to install a well on the property. This cost would be expected to be recovered in approximately 17 years through leasing the land, assuming a rental income of \$1,750 per year. After which point, the landowner would begin to generate revenue beyond the cost of irrigation. This does not take into consideration any reduction in maintenance costs, which is currently \$1,500 for weed abatement and fence repair.

Although the landowner has provided comparative evidence to allow a feasibility determination, irrigating the land with a well is not economically infeasible. While irrigating the land to make it productive would initially cost \$30,000, which would be recovered after 17 years, we do not find this cost “sufficiently severe as to render it impractical,” such that “a reasonably prudent property owner would not proceed” with irrigating the land. (See *Citizens of Goleta*

*Valley, supra*, 197 Cal.App.3d at 1181; *Uphold Our Heritage, supra*, 147 Cal.App.4th 587, 600; see also *The Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 622 [finding costs of restoration and maintenance of mansion for lease in slow rental market sufficiently severe as compared to sale of property where lease costs were shown to exceed costs for sale by several million dollars].)

### **Conclusion**

Comparing the cost of the land as irrigated to the cost of the land un-irrigated, as described above, does not reveal the type of great cost disparity which renders the action impractical. In fact, irrigating the land and putting it to use would enable the landowner to begin to recover an increased investment above its current use, and to eventually have the opportunity to utilize revenues from the land to help pay for the land's various costs. Should the landowner not wish to incur the expense associated with putting the land to use through irrigation, this does not make irrigation infeasible. Therefore, the land would qualify as "prime agricultural land" as defined by Government Code section 56064(a).



**LAFCO MEETING:** April 3, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** SPECIAL DISTRICTS SERVICE REVIEW DRAFT REPORT: PHASE 1

### **STAFF RECOMMENDATION**

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1. Consider the Draft Report for the Special Districts Service Review: Phase 1.
2. Accept public comments.
3. Direct staff to revise the Report as necessary to address comments received through April 5<sup>th</sup> and set June 5, 2013 as the date for the public hearing to consider adoption of the Final Report.

### **PURPOSE**

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The purpose of this public hearing is to consider and accept public comments on the "Special Districts Service Review Draft Report: Phase 1." No final action on the Draft Report will be taken at this hearing. Interested parties and the public may continue to provide comments on the Draft Report. All comments received by Friday, April 5<sup>th</sup> will be considered in the preparation of a Revised Draft Report which will be made available on the LAFCO website in late April.

### **BACKGROUND**

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#### **Six Special Districts Included in the Special Districts Service Review: Phase 1**

The Special Districts Service Review Draft Report reviews six districts, specifically the Rancho Rinconada Recreation and Park District, the Santa Clara County Vector Control District, the Santa Clara Valley Transportation Authority, the Saratoga Cemetery District, the South Santa Clara Valley Memorial District, and the Santa Clara County Lighting Service Area. The Report includes a service review and sphere of influence update for each of these agencies and recommends actions to promote efficient service delivery, and improve the transparency, accountability and governance of these districts.

### **Technical Advisory Committee (TAC)**

A Technical Advisory Committee (TAC) consisting of LAFCO Commissioners Abe-Koga and LeZotte, appointed by LAFCO; and Santa Clara Valley Water District (SCVWD) Board Member Patrick Kwok and Saratoga Fire Protection District Fire Commissioner Eugene Zambetti, appointed by the Santa Clara County Special Districts Association; provided input and guidance during the review process. The Special Districts Association appointed Fire Commissioner Zambetti to replace Board Member Kwok on the TAC after Mr. Kwok's term on the SCVWD concluded. To date, two TAC meetings have been held.

### **Change in Service Review Consultant**

The Matrix Consulting Group, through a Requests for Proposals process, was selected to prepare the Special Districts Service Review. However upon mutual consent, the contract between Matrix Consulting Group and LAFCO was terminated without cause in February 2013. LAFCO then entered into a contract with Policy Consulting Associates to prepare the Special Districts Service Review. The change in consultants and transfer of information to the new consultant has been smooth, with no additional burden to the special districts, and the service review will be conducted within the LAFCO authorized budget amount.

### **Preparation of the Draft Report**

In August 2012, LAFCO staff provided a newsletter outlining the project scope, process and schedule to all affected agencies, interested parties, and LAFCO Commissioners. The consultant then began gathering information on affected agencies and met individually with agency managers, as well as board members in some cases. LAFCO staff participated in a most of these meetings. The consultant then prepared draft profiles of the agencies which were then provided to each agency for internal review and comment in order to ensure factual accuracy prior to the release of the Public Review Draft Report. Next, the consultant analyzed the data and made the required determinations and developed recommendations for each agency.

The County Planning Department prepared GIS maps of Phase 1 special districts for the Draft Report. An administrative draft of the Special Districts Service Review Report: Phase 1 was developed by the consultant and reviewed by LAFCO staff. Staff then worked with the consultant to prepare a Public Review Draft Report.

### **Release of the Draft Report for Public Review and Comment**

The "Special Districts Service Review Draft Report: Phase 1" was made available on the LAFCO website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)) on March 14, 2013 and a Notice of Availability (Attachment A) was sent to all affected agencies, LAFCO Commissioners, and other interested parties announcing the release of the Draft Report (Attachment B) for public review and comment.

## **NEXT STEPS**

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### **Release of Revised Draft Report for Public Review and Comment**

Based on the comments received by April 5<sup>th</sup>, the Draft Report will be revised as necessary. The Revised Draft Report with tracked changes will be available on the LAFCO Website in late April and a hard copy will also be available in the LAFCO Office for public review. A Notice of Availability will be sent to all affected agencies, LAFCO Commissioners, and other interested parties in order to announce the availability of the Revised Draft Report. LAFCO will hold a Final Public Hearing to consider adoption of the Report and its recommendations on June 5, 2013.

### **Special Districts Service Review: Phase 2 Started**

In mid-March, LAFCO staff and Policy Consulting Associates began working on Phase 2 of the Special Districts Service Review which includes the review of nine special districts, specifically the Burbank Sanitary District, the County Sanitation District No. 2-3, the Cupertino Sanitary District, the West Bay Sanitary District, the West Valley Sanitation District, the Lake Canyon Community Services District, the Lion's Gate Community Services District, the Midpeninsula Regional Open Space District, and the Santa Clara County Open Space Authority. Policy Consulting Associates will send a "Request for Information" to these districts within the next week.

## **ATTACHMENTS**

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Attachment A: Notice of Availability of LAFCO's Special Districts Service Review Draft Report: Phase 1

Attachment B: Special Districts Service Review: Phase 1 Public Review Draft Report dated March 14, 2013 is available on the LAFCO website ([www.santaclara.ca.gov](http://www.santaclara.ca.gov))



**DATE:** March 14, 2013

**TO:** Special District Board Members and Managers  
City Managers and County Executive  
City Council Members and County Board of Supervisors  
LAFCO Members  
Interested Parties

**FROM:** Neelima Palacherla, Executive Officer

**SUBJECT:** **LAFCO's SPECIAL DISTRICTS SERVICE REVIEW DRAFT REPORT: PHASE 1**  
**Notice of Availability & Public Hearing**

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The Special Districts Service Review Draft Report reviews six districts, including the Rancho Rinconada Recreation and Park District, the Santa Clara County Vector Control District, the Santa Clara Valley Transportation Authority, the Saratoga Cemetery District, the South Santa Clara Valley Memorial District, and the Santa Clara County Lighting Services Area. The Report includes a service review and sphere of influence update for each of these agencies and recommends actions to promote efficient service delivery, and improvement in the transparency, accountability and governance of these districts. The Report is now available for public review and comment on the LAFCO website at [www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov).

LAFCO will hold a public hearing in order to consider and accept comments on the Draft Report. No final action on the Draft Report will be taken at this public hearing.

**LAFCO Public Hearing:** April 3, 2013  
**Time:** 1:15 P.M. or soon thereafter  
**Location:** Board Meeting Chambers  
70 W. Hedding Street, San Jose, CA 95110

You may provide written comments on the Draft Report by mail to: LAFCO of Santa Clara County, 70 West Hedding Street, 11<sup>th</sup> Floor, East Wing, San Jose, CA 95110 OR you may email your comments to: [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org).

Written comments received by Friday, April 5<sup>th</sup> will be considered and addressed in a Revised Draft Report that will be available in late April for public review and comment on the LAFCO website. A second LAFCO public hearing to consider adopting the Report is scheduled for June 5, 2013.

Please contact me at (408) 299-5127 or Dunia Noel, LAFCO Analyst, at (408) 299-5148 if you have any questions. Thank you.





**LAFCO MEETING:** April 3, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
**SUBJECT:** PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2014

**STAFF RECOMMENDATION**

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1. Adopt the Proposed LAFCO Budget for Fiscal Year 2013-2014.
2. Find that the Proposed LAFCO Budget for Fiscal Year 2014 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the Proposed LAFCO Budget adopted by the Commission including the estimated agency costs as well as the LAFCO public hearing notice on the adoption of the Fiscal Year 2014 Final Budget to the cities, to the special districts, to the County, to the Cities Association and to the Special Districts Association.

**BACKGROUND**

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**LAFCO Budget and Adoption Process**

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) which became effective on January 1, 2001, requires LAFCO to annually adopt a draft budget by May 1 and a final budget by June 15 at noticed public hearings. Both the draft and the final budgets are required to be transmitted to the cities, to the special districts and to the County. Government Code §56381 (a) establishes that at a minimum, the budget must be equal to that of the previous year unless the Commission finds that reduced staffing or program costs will nevertheless allow it to fulfill its statutory responsibilities. Any unspent funds at the end of the year may be rolled over into the next fiscal year budget. After adoption of the final budget by LAFCO, the County Auditor is required to apportion the net operating expenses of the Commission to the agencies represented on LAFCO.

**Apportionment of LAFCO Costs**

In January 2013, independent special districts became represented on LAFCO. Government Code §56381(b)(1)(A) provides that when independent special districts are seated on

LAFCO, the county, cities and districts must each provide a one-third share of LAFCO's operational budget.

The City of San Jose has permanent membership on LAFCO pursuant to Government Code Section 56327. As required by Government Code §56381.6(b), the City of San Jose's share of LAFCO costs must be in the same proportion as its member bears to the total membership on the commission, excluding the public member. The remaining cities' share must be apportioned in proportion to each city's total revenue, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county.

Government Code Section 56381 provides that the independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. The Santa Clara County Special Districts Association (SDA), at its August 13, 2012 meeting, adopted an alternative formula for distributing the independent special districts' share to individual districts. The SDA's agreement requires each district's cost to be based on a fixed percentage of the total independent special districts' share as depicted in the following table.

**Independent Special Districts' Fixed Percentages for LAFCO Costs**

	<b>Independent Special Districts</b>	<b>Fixed Percentage as Established by SDA Resolution Dated (08/13/2012)</b>
1	Aldercroft Heights County Water District	0.06233%
2	Burbank Sanitary District	0.15593%
3	Cupertino Sanitary District	2.64110%
4	El Camino Hospital District	4.90738%
5	Guadalupe Coyote Resource Conservation District	0.04860%
6	Lake Canyon Community Services District	0.02206%
7	Lion's Gate Community Services District	0.22053%
8	Loma Prieta Resource Conservation District	0.02020%
9	Midpeninsula Regional Open Space District	5.76378%
10	Purissima Hills Water District	1.35427%
11	Rancho Rinconada Recreation and Park District	0.15988%
12	San Martin County Water District	0.04431%
13	Santa Clara Open Space District	1.27051%
14	Santa Clara Valley Water District	81.44124%
15	Saratoga Cemetery District	0.32078%
16	Saratoga Fire Protection District	1.52956%
17	South Santa Clara Valley Memorial District	0.03752%
	<b>Total</b>	<b>100%</b>

The agreement allows any district by adopting a resolution declaring hardship, to request the SDA to review and revise the allocation percentages. Additionally, the agreement requires the SDA to review the percentages every five years (starting in July 1, 2018) and determine if there is a desire by the majority of the independent special districts to revise the allocation percentages for each district.

Therefore in Santa Clara County, the County pays a third of LAFCO's operational costs, the independent special districts pay a third, the City of San Jose pays one sixth and the remaining cities pay one sixth. Government Code §56381(c) requires the County Auditor to request payment from the cities, special districts and the County no later than July 1 of each year for the amount each agency owes based on the net operating expenses of the Commission and the actual administrative costs incurred by the Auditor in apportioning costs and requesting payment.

**FISCAL YEAR 2013-2014 BUDGET TIMELINE**

Dates	Staff Tasks / LAFCO Action
March 13 - April 3	Notice period, Draft Budget posted on LAFCO web site and available for review and comment
April 3	LAFCO public hearing on adoption of Draft Budget
April 4	Draft Budget, draft apportionments and LAFCO public hearing notice on Final Budget transmitted to agencies
June 5	Public hearing and adoption of Final Budget
June 5 - July 2	Final Budget transmitted to agencies; Auditor requests payment from agencies

**STATUS OF CURRENT YEAR WORK PLAN AND BUDGET (FISCAL YEAR 2013)**

The LAFCO Annual Report which will be published at the end of the current fiscal year will document the types of applications processed and the various activities / projects that LAFCO has completed in Fiscal Year 2013. **Attachment A** depicts the current status of the work items/projects in the Fiscal Year 2013 Work Plan.

The adopted LAFCO budget for the current year is \$766,607. It is projected that there will be a savings of approximately \$106,620 at the end of this Fiscal Year. Please note that this amount excludes the \$50,000 currently budgeted for reserves. The \$50,000, together with the \$100,000 (held separately since Fiscal Year 2012), expected to be unused, will be rolled over to the next year as is and maintained as the reserve.

Projected Year End Savings = Projected Year End Revenue - Projected Year End Expenses - Budgeted Reserves

Projected Year End Savings = \$816,270 - \$659,659 - \$50,000

Projected Year End Savings = \$106,620

This year end savings is a result of: 1) the actual fund balance from Fiscal Year 2012 being approximately \$35,000 (\$208,315 - \$173,047) more than projected and, 2) earning slightly higher revenue and having lower expenditures than budgeted amounts. The estimated savings of \$106,620 at the end of the current Fiscal Year 2013 will be carried over to reduce the proposed Fiscal Year 2014 costs for the cities, districts and the County. Please see **Attachment B** for table showing status of LAFCO Budget for Fiscal Year 2013.

#### **PROPOSED WORK PROGRAM FOR FISCAL YEAR 2013-2014**

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LAFCO is mandated by the state to process jurisdictional boundary change applications in accordance with the provisions in the Cortese Knox Hertzberg Act. Associated with this mandate, LAFCO has several responsibilities / requirements including but not limited to adopting written policies and procedures, maintaining a web site, serving as a conducting authority for protest proceedings and conducting public hearings and providing adequate public notice. Other state mandates for LAFCO include preparation of service reviews and the corresponding sphere of influence review and update for each city and special district within the County. The LAFCO work program for FY 2013- 2014 is presented in **Attachment C**.

#### **PROPOSED FISCAL YEAR 2013-2014 BUDGET**

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At its February 6, 2013 LAFCO meeting, the Commission appointed Commissioners Wasserman, Constant and Hall, to the LAFCO Finance Committee. The Commission directed the Committee to develop a draft budget for Commission consideration. The Finance Committee held a meeting on March 18, 2013, to discuss issues related to the budget and to formulate the budget for FY 2014. The Finance Committee discussed current and future budget related issues including the status of the current year budget, the highlights and progress on the current year work plan, potential use of electronic agenda packets for LAFCO meetings, process for establishing Executive Officer performance evaluation and salary ranges for all LAFCO staff, the proposed work plan for the upcoming fiscal year and the proposed budget for FY 2014.

The Finance Committee:

1. Recommended that staff implement electronic distribution of LAFCO agenda packets to interested commissioners who would receive the packet electronically on LAFCO purchased ipads or personal tablets and directed staff to prepare policies as necessary, in order to address potential issues associated with the use of this technology, equipment and process. More information, and draft policies will be provided to the Commission at the next LAFCO meeting on June 5, 2013.
2. Directed LAFCO Counsel to contact the County and obtain preliminary information regarding 1) establishing a process for Executive Officer performance evaluation; 2) establishing a process for hiring / firing the Executive Officer; and 3) establishing appropriate salary ranges for all LAFCO staff. LAFCO Counsel

will report back to the Chair of the Finance Committee and the Finance Committee will develop a recommendation for the full Commission consideration.

3. Directed staff to contact the Bay Area Open Space Council and report back on opportunities for building partnerships to achieve common goals.
4. Recommended the proposed budget for FY 2013-2014 (**see Attachment D**). A detailed itemization of the proposed budget, as recommended by the Finance Committee is provided below.

**OBJECT 1. SALARIES AND BENEFITS \$421,194**

All three LAFCO staff positions are staffed through the County Executive's Office. There is no change in the proposed salaries for the LAFCO staff. The cost of benefits is based on the most current information available from the County. Any changes made to this item by the County in the next few months will be reflected in the Final LAFCO budget.

**OBJECT 2. SERVICES AND SUPPLIES**

**5258200 INTRA-COUNTY PROFESSIONAL \$45,000**

This amount includes costs for services from the County Surveyor's Office and the County Assessors' Office.

**LAFCO Surveyor \$40,000**

The County Surveyor will continue to assist with map review and approval. In addition, the Surveyor's Office will also assist with research to resolve boundary discrepancies. It is estimated that 250 to 300 hours of service will be required in the next fiscal year. The County Surveyor's Office estimates a rate of \$133 per hour for FY 2014.

**Miscellaneous Staffing \$5,000**

This amount pays for the cost of reports prepared by the County Assessor's Office for LAFCO proposals. Additionally, it allows LAFCO to seek technical assistance from the County Planning Office on GIS/ mapping issues. LAFCO accesses data in the County Planning Office's GIS server. This item includes maintenance and technical assistance for GIS, if necessary.

**5255800 LEGAL COUNSEL \$57,000**

This item covers the cost for general legal services for the fiscal year. In February 2009, the Commission retained the firm of Best Best & Krieger for legal services on a monthly retainer. The contract was amended in 2010 to reduce the number of total hours required to 240 hours per year. The contract sets the hourly rate and allows for an annual automatic adjustment in the rates based on the Consumer Price Index (CPI). The monthly retainer for FY 2014 increases to \$4,669, based on a 2.7% increase in the Consumer Price Index for the prior calendar year 2012.

**5255500     CONSULTANT SERVICES   \$100,000**

This item is allocated for hiring consultants to assist LAFCO with special projects. This year, the amount is allocated for hiring consultants to conduct service reviews and sphere of influence updates for cities within the county and for any follow-up special studies that maybe required.

**5285700     MEAL CLAIMS   \$750**

This item is being maintained at \$750.

**5220200     INSURANCE   \$5,600**

This item is for the purpose of purchasing general liability insurance and workers' compensation coverage for LAFCO. In 2010, LAFCO switched from the County's coverage to the Special District Risk management Authority (SDRMA), for the provision of general liability insurance. Additionally, LAFCO also obtains workers' compensation coverage for its commissioners from SDRMA. Workers' compensation for LAFCO staff is currently covered by the County and is part of the payroll charge. Rates will remain unchanged in Fiscal Year 2014.

**5250100     OFFICE EXPENSES   \$2,000**

This item is being maintained at \$2,000 and provides for purchase of books, periodicals, small equipment and supplies throughout the year.

**5255650     DATA PROCESSING SERVICES   \$2,700**

This item includes \$2,700 for support from County Information Services Department (ISD) including for active directory (\$426), email support and licenses (\$1,082) and 10 hours of LAN support services (\$1,126).

**5225500     COMMISSIONER'S FEES   \$10,000**

This item includes a \$100 per diem amount for LAFCO Commissioners and Alternate Commissioners to attend LAFCO meetings and committee meetings in the Fiscal Year 2014.

**5260100     PUBLICATIONS AND LEGAL NOTICES   \$2,500**

This is being maintained at \$2,500 and will be used for publication of hearing notices for LAFCO applications and other projects/ studies, as required by state law.

**5245100     MEMBERSHIP DUES   \$7,319**

This amount provides for membership dues to CALAFCO - the California Association of LAFCOs. The CALAFCO Board voted to apply the CPI increase this year. As a result, the 2014 CALAFCO dues will increase slightly to \$7,319.

**5250750     PRINTING AND REPRODUCTION   \$1,500**

An amount of \$1,500 is being budgeted for printing expenses for reports such as service reviews or other studies.

**5285800 BUSINESS TRAVEL \$15,000**

This item is for staff and commissioners to attend conferences and workshops. It would cover air travel, accommodation, conference registration and other expenses at the conferences. CALAFCO annually holds a Staff Workshop and an Annual Conference that is attended by commissioners as well as staff. In addition, this item covers expenses for travel to the CALAFCO Legislative Committee meetings. The Executive Officer serves on the CALAFCO Legislative Committee.

**5285300 PRIVATE AUTOMOBILE MILEAGE \$2,000**

This item provides for travel to conduct site visits, attend meetings and training sessions.

**5285200 TRANSPORTATION AND TRAVEL (for use of County car) \$1,088**

This item would allow for the use of a County vehicle for travel to conferences, workshops and meetings.

**5281600 OVERHEAD \$43,473**

This is an amount established by the County Controller's Office, for service rendered by various County departments that do not directly bill LAFCO. The overhead includes LAFCO share of the County's FY 2014 Cost Allocation Plan which is based on actual overhead costs from FY 2012 – the most recent year for which actual costs are available. This amount totals to \$43,473 and includes the following charges from:

County Executive's Office:	\$33,108
Controller-Treasurer:	\$5,388
Employee Services Agency:	\$2,322
OBA:	\$457
Other Central Services:	\$126
ISD Intergovernmental Service:	\$4,038
ISD	\$1,281
Procurement	\$113

Secondly, a "roll forward" is applied which is calculated by comparing FY 2012 Cost Plan estimates with FY 2012 actuals. Since the FY 2012 cost estimates exceeded the actuals by \$3,360, this amount is reduced from the FY 2014 Cost Plan. This is a state requirement.

**5275200 COMPUTER HARDWARE \$11,000**

This item is being increased by \$9,000 in order to purchase ipads and associated software or accessories to implement the distribution of electronic agenda packets for LAFCO meetings.

**5250800 COMPUTER SOFTWARE \$2,500**

This amount is designated for any computer software purchases, and licenses for current versions of GIS and records management software.



**5250250 POSTAGE \$2,000**

This amount is budgeted for the cost of mailing notices, agendas, agenda packets and other correspondence and is being maintained at \$2,000.

**5252100 TRAINING PROGRAMS \$2,000**

This item provides for attendance at staff development courses and seminars.

**5701000 RESERVES \$0**

No additional funds are budgeted for reserves in FY 2014. See further discussion below.

**3. REVENUES**

**4103400 APPLICATION FEES \$25,000**

It is anticipated that LAFCO will earn approximately \$25,000 in fees from processing applications. The actual amount earned from fees is not within LAFCO control and depends entirely on the level of application activity.

**4301100 INTEREST \$5,000**

It is estimated that LAFCO will receive an amount of about \$5,000 from interest earned on LAFCO funds.

**4. RESERVES**

**3400800 RESERVES \$150,000**

This item includes reserves for two purposes: litigation reserve – for use if LAFCO is involved with any litigation and contingency reserve - to be used for unexpected expenses. If used during the year, this account will be replenished in the following year. LAFCO has not had to use the reserves and the amount has been rolled over to the following year to offset costs. Since 2012, the reserves have been retained in a separate Reserves account, thus eliminating the need for LAFCO to budget each year for this purpose. LAFCO currently retains \$150,000 in reserves separate from operating expenses. No additional funds are budgeted for this purpose in FY 2014.

**COST APPORTIONMENT TO CITIES AND COUNTY**

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Calculation of Net Operating Expenses

**FY 2014 Net Operating Expenses = Proposed FY 2014 Expenditures – Proposed FY 2014 Fee Revenues  
– Projected FY 2013 Year End Savings**

FY 2013 Net Operating Expenses = \$734,624 - \$30,000 - \$106,620

FY 2013 Net Operating Expenses = \$598,004

The proposed net operating expense for FY 2014 is approximately 6% higher than that of the current year.

Please note that the projected operating expenses for FY 2014 are based on projected savings and expenses for the current year and are not actual figures. It is therefore to be expected that there may be revisions to the budget as we get a better indication of

current year expenses towards the end of this fiscal year. Additionally, a more accurate projection of costs for the upcoming fiscal year could be made available by the County, particularly as they relate to employee benefits. This could result in changes to the proposed net operating expenses for FY 2014 which could in turn impact the costs for each of the agencies.

As mentioned previously, special districts became represented on LAFCO in January 2013. Therefore the 17 independent special districts will be charged a pro-rated amount of the annual cost for the current Fiscal Year 2013. These costs are depicted in **Attachment F**. The pro-rated costs for each individual special district (for the 6 months of Fiscal Year 2013) will be added to each district’s FY 2014 share of LAFCO cost. The County and the cities will receive a corresponding credit which will also be reflected in their FY 2014 share of LAFCO cost.

The following is a draft apportionment to the agencies based on the proposed net operating expenses for FY 2014 (\$598,004).

Cost to Agencies

County of Santa Clara	\$199,334
City of San Jose	\$99,667
Remaining 14 Cities in the County	\$99,667
17 Independent Special Districts	\$199,334

Apportionment of the costs among the 14 cities and among the 17 independent special districts will be calculated by the County Controller’s Office after LAFCO adopts the final budget in June. A draft of the estimated apportionment to the cities and special districts is included as **Attachment E** in order to provide the cities and districts a general indication of the costs.

**ATTACHMENTS**

- Attachment A: Status of Current Year Work Plan (FY 2013)
- Attachment B: Status of Current Year Budget (FY 2013)
- Attachment C: Proposed Work Program for Fiscal Year 2014
- Attachment D: Proposed LAFCO Budget for Fiscal Year 2014
- Attachment E: Estimated Costs to Agencies Based on the Proposed Budget
- Attachment F: FY 2013 Revised LAFCO Costs to Agencies (Pro-rated Costs to Special Districts / Credit to Cities and County)



## Status of Current Year (FY 2013) WORK PLAN AGENDA ITEM # 6 Attachment A

	PROJECTS	Status
<b>SERVICE REVIEWS &amp; SPHERE OF INFLUENCE UPDATES</b>	Special Districts Service Review: Phase I and Phase II	Phase I: Underway Phase II: March 2013
	Follow up on Water Service Review Report recommendations	Ongoing: Working with GCRCD / other districts
	Complete El Camino Hospital District Audit and Service Review Report and follow up on recommendations in Report, as necessary	Completed in August 2012. Following up on implementation of recommendations
	Saratoga Fire District Special Study: Issue RFP, Select consultant, conduct study	Study will begin March 2013
	Follow up on Fire Service Review Report Recommendations: Review issues re. Los Altos Hills Fire District reserves	TBD
	Prepare RFP for Cities Service Review and Spheres of Influence Update	October 2013
<b>ISLAND ANNEXATIONS</b>	Follow up on responses: review/research of city limits/ USA boundaries, assist with annexations and USA amendments	Ongoing, as needed
	Finalizing island annexations	Ongoing, as needed
<b>LAFCO APPLICATIONS</b>	Process applicant initiated LAFCO proposals	Ongoing, as needed
	Comment on potential LAFCO applications and/ or related environmental documents	Ongoing, as needed
	Respond to public enquiries re. policies, procedures and filing requirements for LAFCO applications	Ongoing, as needed
<b>PUBLIC OUTREACH / COMMUNICATION</b>	Maintain and update maps of cities and special districts in GIS	Ongoing, as needed
	Publish updated wall map of cities	TBD
	Participate in CALAFCO conferences / workshops	Ongoing, as needed
	Recognize 40 <sup>th</sup> anniversary of LAFCO-County-Cities Joint Urban Development Policies & LAFCO's 50 <sup>th</sup> Year	TBD
	Conduct workshops and make presentations re. LAFCO program, policies	Ongoing, as needed
	Participate in local, regional, statewide organizations SDA, SCCAPO, CA Forward, CALAFCO, GIS Working Group	Ongoing, as needed
<b>ADMINISTRATION</b>	Track LAFCO related legislation (CALAFCO Legislative Committee)	Ongoing, as needed
	Maintain and redesign LAFCO Website	Underway
	Maintain LAFCO database	Ongoing, as needed
	Maintain LAFCO's electronic document management system (archiving LAFCO records)	Ongoing, as needed
	Explore digital agenda packets	Underway
	Prepare Annual Report	August 2013
	Review and update policies and procedures	TBD
	Staff performance evaluation	TBD
	Prepare budget, work plan, fee schedule revisions	Ongoing, as needed
<b>MAJOR NEW ITEMS*</b>	Special Districts Membership on LAFCO	Complete
	Outreach to Mutual Water Companies	Underway

\* Not in the FY 2013 Work Plan.



# FY 2013 LAFCO BUDGET STATUS

## AGENDA ITEM # 6 Attachment B

ITEM # TITLE	ACTUALS FY 2008	ACTUALS FY 2009	ACTUALS FY 2010	ACTUALS FY 2011	ACTUALS FY 2012	APPROVED 2013	YEAR TO DATE 2/13 /2013	YEAR END PROJECTIONS 2013
<b>EXPENDITURES</b>								
Object 1: Salary and Benefits	\$356,009	\$400,259	\$406,650	\$413,966	\$393,194	\$392,182	\$244,050	\$408,672
Object 2: Services and Supplies								
5258200 Intra-County Professional	\$66,085	\$57,347	\$13,572	\$4,532	\$6,118	\$55,000	\$2,882	\$10,000
5255800 Legal Counsel	\$0	\$9,158	\$67,074	\$52,440	\$48,741	\$55,000	\$31,707	\$55,000
5255500 Consultant Services	\$19,372	\$75,000	\$76,101	\$58,060	\$102,349	\$120,000	\$24,434	\$100,000
5285700 Meal Claims	\$0	\$368	\$277	\$288	\$379	\$750	\$88	\$400
5220200 Insurance	\$491	\$559	\$550	\$4,582	\$4,384	\$5,600	\$4,182	\$5,600
5250100 Office Expenses	\$1,056	\$354	\$716	\$639	\$1,212	\$2,000	\$67	\$2,000
5255650 Data Processing Services	\$8,361	\$3,692	\$3,505	\$1,633	\$3,384	\$2,700	\$1,247	\$2,700
5225500 Commissioners' Fee	\$5,700	\$5,400	\$3,500	\$3,400	\$4,000	\$7,000	\$1,400	\$6,000
5260100 Publications and Legal Notices	\$1,151	\$563	\$1,526	\$363	\$916	\$2,500	\$112	\$1,000
5245100 Membership Dues	\$5,500	\$7,000	\$7,000	\$7,000	\$7,000	\$7,154	\$7,154	\$7,154
5250750 Printing and Reproduction	\$5	\$0	\$0	\$0	\$0	\$1,500	\$0	\$500
5285800 Business Travel	\$7,238	\$8,415	\$4,133	\$8,309	\$3,095	\$11,000	\$3,235	\$8,000
5285300 Private Automobile Mileage	\$1,016	\$704	\$832	\$1,185	\$615	\$2,000	\$30	\$1,000
5285200 Transportation&Travel (County Car	\$894	\$948	\$629	\$0	\$384	\$1,088	\$231	\$1,000
5281600 Overhead	\$42,492	\$62,391	\$49,077	\$46,626	\$60,647	\$43,133	\$21,567	\$43,133
5275200 Computer Hardware	\$0	\$451	\$0	\$83	\$2,934	\$2,000	\$0	\$2,000
5250800 Computer Software	\$0	\$0	\$626	\$314	\$579	\$2,000	\$3,114	\$3,500
5250250 Postage	\$1,160	\$416	\$219	\$568	\$309	\$2,000	\$316	\$1,000
5252100 Staff Training Programs	\$0	\$665	\$491	\$250	\$300	\$2,000	\$0	\$1,000
5701000 Reserves	\$0	\$0	\$0	\$0	\$0	\$50,000	\$0	\$0
<b>TOTAL EXPENDITURES</b>	<b>\$516,530</b>	<b>\$633,691</b>	<b>\$636,478</b>	<b>\$604,238</b>	<b>\$640,540</b>	<b>\$766,607</b>	<b>\$345,816</b>	<b>\$659,659</b>
<b>REVENUES</b>								
4103400 Application Fees	\$46,559	\$41,680	\$35,576	\$48,697	\$37,426	\$25,000	\$37,437	\$40,000
4301100 Interest: Deposits and Investments	\$24,456	\$16,230	\$6,688	\$4,721	\$4,248	\$5,000	\$2,163	\$4,500
<b>Savings/Fund Balance from previous FY</b>	<b>\$271,033</b>	<b>\$368,800</b>	<b>\$334,567</b>	<b>\$275,605</b>	<b>\$209,987</b>	<b>\$173,047</b>	<b>\$208,315</b>	<b>** \$208,219</b>
<b>TOTAL REVENUE</b>	<b>\$342,048</b>	<b>\$426,711</b>	<b>\$376,831</b>	<b>\$329,023</b>	<b>\$251,661</b>	<b>\$203,047</b>	<b>\$247,915</b>	<b>\$252,719</b>
<b>NET LAFCO OPERATING EXPENSES</b>	<b>\$174,482</b>	<b>\$206,980</b>	<b>\$259,648</b>	<b>\$275,215</b>	<b>\$388,879</b>	<b>\$563,560</b>	<b>\$97,901</b>	<b>\$406,940</b>
3400800 RESERVES				<b>\$100,000</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>\$150,000</b>	<b>\$150,000</b>
<b>COSTS TO AGENCIES</b>								
County	\$271,641	\$270,896	\$267,657	\$292,601	\$298,597	\$281,780	\$281,780	\$281,780
City of San Jose	\$135,821	\$135,448	\$133,829	\$146,300	\$149,298	\$140,890	\$140,890	\$140,890
Other Cities	\$135,821	\$135,448	\$133,829	\$146,300	\$149,298	\$140,890	\$140,890	\$140,890

\*\* Fund balance is adjusted (by \$104) to reflect revenue/expenditure differences in accounting system.





**PROPOSED WORK PLAN FOR FISCAL YEAR 2014** **AGENDA ITEM # 6**  
**Attachment C**

	<b>PROJECTS</b>	<b>TIME FRAME</b>	<b>RESOURCES</b>
<b>SERVICE REVIEWS &amp; SPHERE OF INFLUENCE UPDATES</b>	Special Districts Service Review: Phase II	LAFCO Hearing in October 2013.	Consultant
	Follow up on implementation of recommendations for Phase 1 districts	July 2013	Staff
	Follow up on Water Service Review Report recommendations	Ongoing	Staff
	Follow up on implementation of recommendations from ECHD Audit / Service Review Report	Follow-Up Actions: TBD	Staff
	Saratoga Fire District Special Study: Follow up as necessary	TBD	Consultant
	Follow up on Fire Service Review Report Recommendations: Review issues re. Los Altos Hills Fire District reserves	TBD	Staff
	Prepare RFP for Cities Service Review and Spheres of Influence Update	October 2013	Staff
<b>ISLAND ANNEXATIONS</b>	Follow up on responses including review/research of city limits/ USA boundaries, provide assistance with potential annexations and potential USA amendments	Ongoing, as needed	Staff
	Finalizing island annexations	Ongoing, as needed	Staff
<b>LAFCO APPLICATION</b>	Process applicant initiated LAFCO proposals	Ongoing, as needed	Staff
	Comment on potential LAFCO applications and/ or related environmental documents	Ongoing, as needed	Staff
	Respond to public enquiries re. policies, procedures and filing requirements for LAFCO applications	Ongoing, as needed	Staff
<b>PUBLIC OUTREACH / COMMUNICATION</b>	Maintain maps of cities and special districts in GIS	Ongoing, as needed	Staff
	Publish updated wall map of cities	TBD	Staff
	Participate in CALAFCO conferences / workshops	Ongoing, as needed	Staff
	Recognize 40 <sup>th</sup> anniversary of LAFCO-County-Cities Joint Urban Development Policies, LAFCO's 50 <sup>th</sup> year	TBD	Staff
	Conduct workshops and make presentations re. LAFCO program, policies	Ongoing, as needed	Staff
	Participate in local, regional, statewide organizations SDA, SCCAPO, CALAFCO, GIS Working Grp.	Ongoing, as needed	Staff
<b>ADMINISTRATION</b>	Track LAFCO related legislation (CALAFCO Legislative Committee)	Ongoing, as needed	Staff
	Maintain and enhance LAFCO Website	Ongoing, as needed	Staff
	Maintain LAFCO database	Ongoing, as needed	Staff
	Maintain LAFCO's electronic document management system (archiving LAFCO records)	Ongoing, as needed	Staff
	Implement electronic agenda packets	TBD	Staff
	Prepare Annual Report	August 2013	Staff
	Staff training and development	TBD	Staff
	Staff performance evaluation	TBD	Staff, LAFCO
	Prepare budget, work plan, fee schedule revisions	Ongoing, as needed	Staff
<b>OTHER</b>	Review and update policies and procedures	TBD	Staff
	Mapping Mutual Water Companies	TBD	Staff



**PROPOSED LAFCO BUDGET  
FISCAL YEAR 2013 - 2014**

**AGENDA ITEM # 6  
Attachment D**

<b>ITEM # TITLE</b>	<b>APPROVED FY 2013 BUDGET</b>	<b>ACTUALS Year to Date 2/13/2013</b>	<b>YEAR END PROJECTIONS 2013</b>	<b>PROPOSED FY 2014 BUDGET</b>
<b>EXPENDITURES</b>				
Object 1: Salary and Benefits	\$392,182	\$244,050	\$408,672	\$421,194
Object 2: Services and Supplies				
5258200 Intra-County Professional	\$55,000	\$2,882	\$10,000	\$45,000
5255800 Legal Counsel	\$55,000	\$31,707	\$55,000	\$57,000
5255500 Consultant Services	\$120,000	\$24,434	\$100,000	\$100,000
5285700 Meal Claims	\$750	\$88	\$400	\$750
5220200 Insurance	\$5,600	\$4,182	\$5,600	\$5,600
5250100 Office Expenses	\$2,000	\$67	\$2,000	\$2,000
5255650 Data Processing Services	\$2,700	\$1,247	\$2,700	\$2,700
5225500 Commissioners' Fee	\$7,000	\$1,400	\$6,000	\$10,000
5260100 Publications and Legal Notices	\$2,500	\$112	\$1,000	\$2,500
5245100 Membership Dues	\$7,154	\$7,154	\$7,154	\$7,319
5250750 Printing and Reproduction	\$1,500	\$0	\$500	\$1,500
5285800 Business Travel	\$11,000	\$3,235	\$8,000	\$15,000
5285300 Private Automobile Mileage	\$2,000	\$30	\$1,000	\$2,000
5285200 Transportation&Travel (County Car Usage)	\$1,088	\$231	\$1,000	\$1,088
5281600 Overhead	\$43,133	\$21,567	\$43,133	\$43,473
5275200 Computer Hardware	\$2,000	\$0	\$2,000	\$11,000
5250800 Computer Software	\$2,000	\$3,114	\$3,500	\$2,500
5250250 Postage	\$2,000	\$316	\$1,000	\$2,000
5252100 Staff/Commissioner Training Programs	\$2,000	\$0	\$1,000	\$2,000
5701000 Reserves	\$50,000	\$0	\$0	\$0
<b>TOTAL EXPENDITURES</b>	<b>\$766,607</b>	<b>\$345,816</b>	<b>\$659,659</b>	<b>\$734,624</b>
<b>REVENUES</b>				
4103400 Application Fees	\$25,000	\$37,437	\$40,000	\$25,000
4301100 Interest: Deposits and Investments	\$5,000	\$2,163	\$4,500	\$5,000
Savings/Fund Balance from previous FY	\$173,047	\$208,219	\$208,219	\$106,620
<b>TOTAL REVENUE</b>	<b>\$203,047</b>	<b>\$247,819</b>	<b>\$252,719</b>	<b>\$136,620</b>
<b>NET LAFCO OPERATING EXPENSES</b>	<b>\$563,560</b>	<b>\$97,997</b>	<b>\$406,940</b>	<b>\$598,004</b>
3400800 <b>RESERVES</b>	<b>\$100,000</b>	<b>\$150,000</b>	<b>\$150,000</b>	<b>\$150,000</b>
<b>COSTS TO AGENCIES</b>				
4600100 Cities (San Jose 50% + Other Cities 50%)	\$281,780	\$281,780	\$281,780	\$199,335
5440200 County	\$281,780	\$281,780	\$281,780	\$199,335
Special Districts				\$199,335



**AGENDA ITEM # 6**  
**Attachment E**

**LAFCO COST APPORTIONMENT: County, Cities, Special Districts**  
**Estimated Costs to Agencies Based on the Proposed 2014 LAFCO Budget**

Proposed LAFCO Net Operating Expenses for 2014				\$598,004
Jurisdictions	Revenue per 2010/2011 Report	Percentage of Total Revenue	Allocation Percentages	Allocated Costs
County	N/A	N/A	33.3333333%	\$199,334.67
<b>Cities Total Share</b>			<b>33.3333333%</b>	<b>\$199,334.67</b>
San Jose	N/A	N/A	50.0000000%	\$99,667.33
Other cities share			50.0000000%	\$99,667.33
Campbell	\$40,087,404	2.1493629%		\$2,142.21
Cupertino	\$54,124,686	2.9019987%		\$2,892.34
Gilroy	\$130,123,837	6.9768386%		\$6,953.63
Los Altos	\$36,959,656	1.9816627%		\$1,975.07
Los Altos Hills	\$9,460,965	0.5072677%		\$505.58
Los Gatos	\$35,312,778	1.8933622%		\$1,887.06
Milpitas	\$94,169,561	5.0490813%		\$5,032.28
Monte Sereno	\$2,527,948	0.1355408%		\$135.09
Morgan Hill	\$47,971,760	2.5720977%		\$2,563.54
Mountain View	\$162,285,614	8.7012539%		\$8,672.31
Palo Alto	\$412,252,000	22.1036802%		\$22,030.15
Santa Clara	\$535,623,958	28.7185039%		\$28,622.97
Saratoga	\$20,280,804	1.0873941%		\$1,083.78
Sunnyvale	\$283,902,115	15.2219554%		\$15,171.32
<b>Total Cities (excluding San Jose)</b>	<b>\$1,865,083,086</b>	<b>100.0000000%</b>		<b>\$99,667.33</b>
<b>Total Cities (including San Jose)</b>				<b>\$199,334.67</b>
<b>Special Districts Total Share</b>			<b>33.3333333%</b>	<b>\$199,334.67</b>
Aldercroft Heights County Water District		0.06233%		\$124.25
Burbank Sanitary District		0.15593%		\$310.82
Cupertino Sanitary District		2.64110%		\$5,264.63
El Camino Hospital District		4.90738%		\$9,782.11
Guadalupe Coyote Resource Cons. District		0.04860%		\$96.88
Lake Canyon Community Services District		0.02206%		\$43.97
Lion's Gate Community Services District		0.22053%		\$439.59
Loma Prieta Resource Cons. District		0.02020%		\$40.27
Midpeninsula Regional Open Space District		5.76378%		\$11,489.21
Purissima Hills County Water District		1.35427%		\$2,699.53
Rancho Rinconada Rec. and Park District		0.15988%		\$318.70
San Martin County Water District		0.04431%		\$88.33
Santa Clara County Open Space District		1.27051%		\$2,532.57
Santa Clara Valley Water District		81.44126%		\$162,340.67
Saratoga Cemetery District		0.32078%		\$639.43
Saratoga Fire Protection District		1.52956%		\$3,048.94
South Santa Clara Valley Memorial District		0.03752%		\$74.79
<b>Total Special Districts</b>		<b>100.00000%</b>		<b>\$199,334.67</b>
<b>Total Allocated Costs</b>				<b>\$598,004.01</b>



Revised 2012/2013 LAFCO COST APPORTIONMENT

Jurisdictions	Original				Revised				Additional Charges/ (Refund)	
	Revenue per 2009/2010 Report	Percentage of Total Revenue	Allocation Percentages	Allocated Costs	1st Half of FY2012-13 Allocated Amount Allocation Percentages	2nd Half of FY2012-13 Allocated Amount Allocation Percentages	Total			
<b>County</b>	N/A	N/A	50.00000000%	\$281,780.00	50.00000000%	140,890.00	33.33333333%	93,926.67	234,816.67	(\$46,963.33)
<b>Cities</b>										
San Jose	N/A	N/A	25.00000000%	\$140,890.00	50.00000000%	140,890.00	33.33333333%	93,926.67	234,816.67	(23,481.67)
Campbell	\$37,199,184	2.0182051%	0.5045513%	\$2,843.45	25.00000000%	70,445.00	16.6666667%	46,963.33	117,408.33	(473.91)
Cupertino	\$51,593,772	2.7991693%	0.6997923%	\$3,943.75	0.5045513%	1,421.72	0.3363668%	947.82	2,369.54	(657.29)
Gilroy	\$65,499,455	3.5360855%	0.8884021%	\$5,006.68	0.6997923%	1,971.87	0.4665288%	1,314.58	3,286.46	(834.45)
Los Altos	\$37,223,642	2.0195321%	0.5048830%	\$2,845.32	0.8884021%	2,503.34	0.5922688%	1,668.89	4,172.23	(474.22)
Los Altos Hills	\$10,074,345	0.5465737%	0.1366434%	\$770.07	0.5048830%	1,422.66	0.3365899%	948.44	2,371.10	(128.34)
Los Gatos	\$50,773,160	2.7546478%	0.6886620%	\$3,881.02	0.1366434%	385.03	0.0910969%	256.69	641.72	(646.84)
Milpitas	\$94,121,506	5.1064697%	1.2766174%	\$7,194.51	0.6886620%	1,940.51	0.4591089%	1,293.67	3,234.19	(1,199.08)
Monte Sereno	\$2,604,662	0.1413134%	0.0353283%	\$199.10	1.2766174%	3,597.25	0.8510789%	2,398.17	5,995.42	(33.18)
Morgan Hill	\$47,513,050	2.5777738%	0.6444434%	\$3,631.83	0.0353283%	99.55	0.0235522%	66.37	165.91	(605.30)
Mountain View	\$163,494,125	8.8702129%	2.2175532%	\$12,497.24	0.6444434%	1,815.91	0.4296299%	1,210.61	3,026.52	(2,082.87)
Palo Alto	\$491,995,000	26.6927047%	6.6731762%	\$37,607.35	2.2175532%	6,248.62	1.4783699%	4,165.75	10,414.37	(6,267.89)
Santa Clara	\$478,854,381	25.9797733%	6.4949433%	\$36,602.90	6.6731762%	18,803.68	4.4487849%	12,535.78	31,339.46	(6,100.48)
Saratoga	\$18,947,298	1.0279670%	0.2569918%	\$1,448.30	6.4949433%	18,301.45	4.3299629%	12,200.97	30,502.42	(241.38)
Sunnyvale	\$293,287,941	15.9120487%	3.9780122%	\$22,418.49	0.2569918%	724.15	0.1713288%	482.77	1,206.92	(3,736.41)
<b>Cities Total</b>				\$281,780.00		140,890.00		93,926.67	234,816.67	(46,963.33)
<b>Total</b>	\$1,843,181,521	100.0000000%	100.0000000%	\$563,560.00						
<b>Total Cities (excluding San Jose)</b>										
<b>Special Districts Total Share</b>										
Aldercroft Heights County Water District								93,926.67	93,926.67	58.54
Burbank Sanitary District								58.54	58.54	146.46
Cupertino Sanitary District								146.46	146.46	2,480.70
El Camino Hospital District								2,480.70	2,480.70	4,609.34
Guadalupe Coyote Resource Cons. District								4,609.34	4,609.34	45.65
Lake Canyon Community Services District								45.65	45.65	20.72
Lion's Gate Community Services District								20.72	20.72	207.14
Loma Prieta Resource Cons. District								207.14	207.14	18.97
Midpeninsula Regional Open Space District								18.97	18.97	5,413.73
Purissima Hills County Water District								5,413.73	5,413.73	1,272.02
Rancho Rinconada Rec. and Park District								1,272.02	1,272.02	150.17
San Martin County Water District [I]								150.17	150.17	41.62
Santa Clara County Open Space District								41.62	41.62	1,193.35
Santa Clara Valley Water District								1,193.35	1,193.35	76,495.06
Saratoga Cemetery District								76,495.06	76,495.06	301.30
Saratoga Fire Protection District								301.30	301.30	1,436.66
South Santa Clara Valley Memorial District								1,436.66	1,436.66	35.24
<b>Total Special Districts</b>								93,926.67	93,926.67	
<b>Total</b>						281,780.00		281,780.00	563,560.00	-





**LAFCO MEETING:** April 3, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** LEGISLATIVE COUNSEL'S OPINION ON THE APPLICABILITY OF THE GANN APPROPRIATIONS LIMIT TO HEALTH CARE DISTRICTS

### **STAFF RECOMMENDATION**

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Accept report and provide direction to staff, as necessary

### **BACKGROUND**

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At the August 2012 LAFCO meeting, the Commission directed staff to seek the State Attorney General's (AG) opinion on the applicability of the Gann Appropriations limit to health care districts. In mid-September, LAFCO staff and Commissioner Abe-Koga had preliminary discussions with Assembly Member Rich Gordon's staff regarding this issue. Rather than seek an AG opinion that was expected to take several years, Assembly Member Gordon sought the opinion of the State Office of Legislative Counsel on this matter. LAFCO staff received the State Office of Legislative Counsel's opinion (Attachment A) on March 21<sup>st</sup>, but has not had sufficient time to fully review it. Staff will provide a more detailed update on the opinion as it relates to the El Camino Hospital District at the June 5, 2013 LAFCO meeting.

Per LAFCO Legal Counsel, the courts will give "consideration" to Legislative Counsel Opinions and may give them "great weight" when they indicate factual legislative intent. Therefore, while an opinion regarding a strictly legal question may only be entitled to "consideration," a Legislative Counsel Opinion that helps explain the Legislature's understanding of a law it is adopting is entitled to "great weight." The courts have referred to AG Opinions as "entitled to great respect" and "great weight," particularly in the absence of controlling authority. In contrast to Legislative Counsel Opinions, AG Opinions are entitled to "great weight" and "great respect" when they consider legislative intent or general legal questions especially in areas where the Attorney General has enforcement or regulatory authority like the Brown Act. However, AG's opinions and Legislative Counsel's opinions are both not binding.

### **ATTACHMENT**

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Attachment A: Legislative Counsel's Opinion Re: Applicability of the Gann Appropriations Limit to Health Care Districts



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**FAX**



**ITEM # 7  
Attachment A**



To: Neelima Palacherla From: Jeremy Dennis

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Fax: 408-295-1613 Pages: 11

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Phone: Date: 3-21-13

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Re: Legislative Council Opinion, Gann Limit CC:

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Urgent  For Review  Please Comment  Please Reply  Please Recycle

Comments:

Per our phone conversation



LEGISLATIVE COUNSEL  
Diane F. Boyer-Vine

A TRADITION OF TRUSTED LEGAL SERVICE  
TO THE CALIFORNIA LEGISLATURE

CHIEF DEPUTY  
Jeffrey A. Deland

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March 14, 2013

Sergio F. Caprio  
Lisa A. Goldkorn  
Gábor Schier  
Michael R. Kelly  
Romulo E. Lopez  
Fred A. Meserco  
William E. Middelmeier  
Gerardo Parada  
Aaron D. Silva

Honorable Richard S. Gordon  
Room 4126, State Capitol

**GANN LIMIT: HEALTH CARE DISTRICT - #1301612**

DEPUTIES  
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Ann M. Burstein  
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Nathaniel W. Grader  
Muri C. Guzman  
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Stephanie Elaine Hoehn  
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Christina M. Kenner  
Michael H. Kenner  
Lynn Kim  
Lee B. Krutinger  
L. Erik Lange  
Patricia A. Lee  
Jason K. Lee  
Kathryn W. Lundenberg  
Anthony C. Marquez  
Christine P. MacQueen  
Margot Maurer  
Shirley P. Moshir  
Nanette R. Moxon  
Crista Blomquist Nelson  
Kathleen A. Nielsen  
Joshua S. Peterson  
Susan Ann Peterson  
Lisa M. Pompa  
Catherine Blunt  
Robert D. Roth  
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Nicola S. Sklar  
Stephanie Lynn Smiley  
Lillian L. Steel  
Micki Franklin Tarr  
Scott Thomas  
Dana L. Vandenberg  
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Graham A. Varney  
Scott A. Washburn  
Bradley T. Weber  
Kathleen M. Weigel  
Constance Wong  
Lynn Wright  
Gordon C. Zapp  
Christine M. Zapp  
Scott Zapp

Dear Mr. Gordon:

**QUESTION**

You have asked us whether a health care district, organized under the Local Health Care District Law, is subject to the spending limitation imposed by article XIII B of the California Constitution. We have considered your question, and our analysis of and opinion on the issues presented are set forth below.

**ANALYSIS**

**1. Overview of article XIII B of the California Constitution**

In order to analyze the issues presented by your question, we must first discuss the legal context in which your question arises. Article XIII B of the California Constitution imposes a limitation on the amount of money that the state or a local government entity may annually appropriate from the proceeds of taxes levied by or for the state or local government entity (hereafter the Gann limit).<sup>1</sup> The Gann limit is calculated each year using the amount of revenue from the proceeds of taxes, as defined by article XIII B, that the state or a local government entity appropriated in the prior fiscal year, adjusted for inflation, change in population, transfers of responsibility between governmental entities, and emergencies.<sup>2</sup> If a local government entity takes in more revenue from the proceeds of taxes, as defined, than it

<sup>1</sup> Cal. Const., art. XIII B, § 1.

<sup>2</sup> Cal. Const., art. XIII B, §§ 1 & 3.

is allowed to spend under that cap, then that local government entity must return that excess revenue to the taxpayers in accordance with certain procedures.<sup>3</sup>

As an initial matter, a local government entity is defined for purposes of the Gann limit to include, among other things, any special district.<sup>4</sup> However, a special district is exempt from the Gann limit if either it existed on January 1, 1978, and did not as of the 1977-1978 fiscal year levy an ad valorem tax on property in excess of 12½ cents per \$100 of assessed value, or it is totally funded by revenues other than the proceeds of taxes.<sup>5</sup>

The Local Health Care District Law<sup>6</sup> authorizes the creation of a type of special district known as a local health care district.<sup>7</sup> Consequently, in our view, a health care district is a local government entity to which the Gann limit applies unless either it receives no revenue from the proceeds of taxes or it existed on January 1, 1978, and did not as of the 1977-1978 fiscal year levy an ad valorem tax on property in excess of 12½ cents per \$100 of assessed value.<sup>8</sup>

In order to establish whether the exception for appropriations of a health care district that receives no revenue from the proceeds of taxes applies, and in order to calculate the Gann limit, we must determine what constitutes the proceeds of taxes. Proceeds of taxes are defined to include all tax revenue received by a local government entity, including any "regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service," any revenue earned by the "investment of tax revenues," and any revenues subvented to the entity by the state, except as specified.<sup>9</sup> The phrase "proceeds of taxes" has been interpreted broadly by courts to include any imposition that raises "general tax revenue for the entity."<sup>10</sup>

Additionally, even if a health care district is a local government entity to which the Gann limit generally applies, certain types of appropriations are exempted from the limit, including appropriations for debt services, certain appropriations required to comply with mandates of the courts or the federal government, appropriations for special districts meeting certain factual requirements, appropriations for qualified capital outlay projects, or appropriations of revenue derived from certain motor vehicles fuel taxes, sales and use taxes, and weight fees.<sup>11</sup>

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<sup>3</sup> Cal. Const., art. XIII B, § 2, subd. (b).

<sup>4</sup> Cal. Const., art. XIII B, § 8, subds. (b)-(d).

<sup>5</sup> Cal. Const., art. XIII B, § 9, subd. (c); Gov. Code, § 7901, subd. (e).

<sup>6</sup> Health & Saf. Code, div. 23 (§ 32000 et seq.).

<sup>7</sup> Health care districts, formerly called hospital districts, were originally authorized in 1945. (Stats. 1945, ch. 932, adding Health & Saf. Code, § 32000 et seq.)

<sup>8</sup> Cal. Const., art. XIII B, § 9, subd. (c).

<sup>9</sup> Cal. Const., art. XIII B, § 8, subd. (c).

<sup>10</sup> See *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451.

<sup>11</sup> Cal. Const., art. XIII B, § 9.

To answer your question, we must first determine if the health care district receives any revenue from the proceeds of taxes.<sup>12</sup> If it does, then the Gann limit applies to the health care district, and any nonexempt appropriations of the proceeds of taxes levied by or for that entity and the proceeds of state subventions to that entity, except as specified, would be subject to the Gann limit. Below, we discuss certain types of revenue that a health care district may receive, whether those types of revenue are proceeds of taxes that would render the Gann limit applicable to a health care district, and whether the appropriation of those particular types of revenues would be subject to the Gann limit.

## 2. Types of revenue collected by or for a health care district

Generally, a special district, including a health care district, has no authority to levy a tax without authorization by the Legislature.<sup>13</sup> The Legislature has authorized health care districts to collect revenue in various ways, including by imposing an ad valorem property tax,<sup>14</sup> a special tax,<sup>15</sup> a special assessment,<sup>16</sup> or a fee.<sup>17</sup> We will discuss each of these types of revenue sources in turn.<sup>18</sup>

### 2.1. General ad valorem property tax

An ad valorem property tax is a tax "derived from applying a property tax rate to the assessed value of [real or personal] property."<sup>19</sup> As such, revenue received from an ad valorem property tax would be "proceeds of taxes" for purposes of the Gann limit. However, the statutory authority granted by the Local Health Care District Law to a health care district to levy a general ad valorem property tax was limited by the enactment of the constitutional provisions of Proposition 13 in 1978, and subsequent statutory changes, which set the general ad valorem property tax rate in a county to a maximum of 1 percent of the

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<sup>12</sup> We will not discuss whether any particular health care district is exempt because it existed on January 1, 1978, and did not as of the 1977-1978 fiscal year levy an ad valorem tax on property in excess of 12½ cents per \$100 of assessed value. Thus, the analysis addresses only health care districts to which that that exception does not apply.

<sup>13</sup> Cal. Const., art. XIII A, § 4.

<sup>14</sup> Health & Saf. Code, div. 23, ch. 3, art. 1 (§ 32200 et seq.).

<sup>15</sup> Gov. Code, § 53730.01.

<sup>16</sup> Health & Saf. Code, div. 23, ch. 3, art. 3 (§ 32240 et seq.).

<sup>17</sup> Health & Saf. Code, § 32125.

<sup>18</sup> If a health care district receives revenue from the proceeds of state subventions to a district or revenues from the investment of tax revenues, then the special district is subject to the Gann limit, except for state subventions provided under article XIII B, section 6 of the California Constitution. (Cal. Const., art. XIII B, § 8, subd. (c).) As such, we will not discuss those revenues.

<sup>19</sup> *Heckendorn v. City of San Marino* (1986) 42 Cal.3d 481, 483.



assessed value of the property,<sup>20</sup> and prohibit a local agency, including a health care district, from levying a general ad valorem property tax (hereafter Proposition 13).<sup>21</sup> If there is a conflict between a statutory provision and the California Constitution, then the statute is void.<sup>22</sup> Accordingly, in our view, a health care district no longer has the power to levy a general ad valorem property tax.<sup>23</sup>

Although a health care district no longer has the authority to levy a general ad valorem property tax, a health care district may still receive a portion of the ad valorem property tax levied by the county. Proposition 13 establishes a general limit of 1 percent upon the ad valorem property tax rate in each county, and requires the county to annually collect a 1 percent ad valorem property tax. Those property tax revenues collected in each county with respect to that 1-percent rate must be "apportioned according to law" among the jurisdictions in that county.<sup>24</sup> This requirement is implemented in statute by Revenue and Taxation Code, division 1, part 0.5, chapter 6 (§ 95 et seq.) (hereafter chapter 6). That chapter generally requires that each jurisdiction in a county, including special districts,<sup>25</sup> be annually allocated, from those revenues derived from the county's 1-percent annual general ad valorem property tax rate, an amount equal to the total amount of county property tax revenue allocated to that jurisdiction in the prior fiscal year<sup>26</sup> and that jurisdiction's portion of the annual tax increment, as defined, with specified modifications.<sup>27</sup> As one type of special district, a health care district is one of the local jurisdictions that receives, under the allocation formulas set forth in chapter 6, a share of those revenues derived from the 1-percent property tax rate annually levied by the county.<sup>28</sup>

Because proceeds of local taxes are only subject to the Gann limit if they are levied "by or for" the local government, the question arises whether the general ad valorem property tax revenues that a health care district receives are the proceeds of a tax that was levied "by or for" the health care district.<sup>29</sup> Courts have construed the phrase "to levy taxes by or for another entity" to mean, generally, that the entity on whose behalf the tax was levied must

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<sup>20</sup> Cal. Const., art. XIII A, § 1, subd. (a).

<sup>21</sup> Rev. & Tax. Code, § 93.

<sup>22</sup> *Hotel Employees and Restaurant Employees Intern. Union v. Davis* (1999) 21 Cal.4th 585, 602.

<sup>23</sup> See part 2.2, *infra*, for a discussion of a health care district's authority to impose a special ad valorem property tax.

<sup>24</sup> Cal. Const., art. XIII A, § 1, subd. (a)

<sup>25</sup> Rev. & Tax. Code, § 95, subds. (a), (b) & (m).

<sup>26</sup> Rev. & Tax. Code, § 96.1, subd. (a).

<sup>27</sup> Rev. & Tax. Code, §§ 96.1 & 96.5.

<sup>28</sup> Cal. Const., art. XIII A, § 1, subd. (a); Rev. & Tax. Code, § 95, subd. (b).

<sup>29</sup> Cal. Const., art. XIII B, § 8, subd. (b).

have had the power to levy the tax itself.<sup>30</sup> For example, in *Bell Community Redevelopment Agency v. Woosley*, *supra*, 169 Cal.App.3d 24, 32-33, the court applied that construction to hold that redevelopment agencies were not subject to the Gann limit because a redevelopment agency had never had the independent power to tax and, thus, a county does not levy taxes “by or for” a redevelopment agency for purposes of California Constitution, article XIII B. Similarly, because Proposition 13 took away the power of a health care district to levy an ad valorem property tax, an argument could be made that the portion of the general ad valorem property tax collected by the county and distributed to special districts is not levied “by or for” the health care district.

However, we do not find this argument compelling for two reasons. First, health care districts are distinguishable from redevelopment agencies because, unlike redevelopment agencies, they historically had the power to impose a general ad valorem tax. Second, to construe the phrase “by or for” in a way that would exempt the portion of the general ad valorem property tax distributed to special districts from the Gann limit would be inconsistent with the purposes of article XIII B.<sup>31</sup> It has been the longstanding policy of this state that general ad valorem property tax is to be used for local revenue purposes.<sup>32</sup> Indeed, prior to the passage of Proposition 13, general ad valorem property tax was the primary source of revenue for local jurisdictions. In 1978, the voters passed Proposition 13, which, as stated above, limited the amount of ad valorem property tax assessed on real and personal property.<sup>33</sup> Less than a year later, the Gann limit was adopted by the voters as Proposition 4 in the November 6, 1979, special statewide election. In the ballot arguments for Proposition 4, the proponents characterized it as the “next logical step” to Proposition 13, which had been enacted less than a year before and had limited the amount of ad valorem property tax assessed on real and personal property.<sup>34</sup> While Proposition 13 limited the amount of ad valorem property tax that the government can collect, Proposition 4 sought to limit the growth of spending in general in order to encourage “discipline in tax spending” by the

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<sup>30</sup> See *Bell Community Redevelopment Agency v. Woosley* (1985) 169 Cal.App.3d 24, 32-33.

<sup>31</sup> The holding in *Bell Community Redevelopment Agency v. Woosley*, *supra*, 169 Cal.App.3d at page 32, is distinguishable on additional grounds: (1) unlike a special district, a redevelopment agency has no appropriation limit, and (2) the appropriation in this case was for debt service, which is expressly exempt from the Gann limit.

<sup>32</sup> *San Francisco & S.M. Elec. Ry. Co. v. Scott* (1903) 142 Cal. 222, 229, cited in *City of Rancho Cucamonga v. Mackzum* (1991) 228 Cal.App.3d 929, 940.

<sup>33</sup> See Cal. Const., art. XIII A, § 1.

<sup>34</sup> Ballot Pamp., Special Statewide Elec. (November 6, 1979) argument in favor of Prop. 4, p. 18; *Oildale Mutual Wat. Co. v. North of the River Mun. Wat. Dist.* (1989) 215 Cal.App.3d 1628, 1632.

government.<sup>35</sup> Accordingly, the Gann limit should be construed consistently with Proposition 13 in order to accomplish the dual objectives of controlling taxes and limiting spending of those taxes.<sup>36</sup> To construe the Gann limit as excluding the appropriation of general ad valorem taxes that are distributed to a local government entity under Proposition 13 would result in allowing all local government entities, except for a county, that receive a portion of the property tax allocation to spend that amount without limitation. This result would be inconsistent with the intent behind the Gann limit to encourage "discipline in tax spending."<sup>37</sup>

Not only would that result be inconsistent with the purpose of the Gann limit, it would also be inconsistent with Proposition 13. Proposition 13 requires that the county collect the remaining general ad valorem property tax revenues and "[apportion those revenues] according to law" among the jurisdictions in that county.<sup>38</sup> In that way, the county is, in effect, collecting the general ad valorem property tax revenue by and for the local jurisdictions, and distributing a specified amount to local jurisdictions. A local jurisdiction may use any general ad valorem property tax revenue for the general support of that entity.<sup>39</sup> Because the general ad valorem property tax distributed to a health care district pursuant to Proposition 13 is an imposition that raises general tax revenue for the entity, we believe that a court would conclude that those revenues are proceeds of taxes levied "by or for" the health care district for purposes of the Gann limit.<sup>40</sup>

Accordingly, it is our opinion that the Gann limit applies to a health care district that receives a portion of general ad valorem property tax collected and distributed by a county, and that a nonexempt appropriation of that revenue would be subject to the Gann limit.

## 2.2. Special ad valorem property tax

Although Proposition 13 prohibits a special district, including a health care district, from levying a general ad valorem property tax, special districts are still authorized to levy a special ad valorem property tax to pay the principal and interest on certain types of indebtedness.<sup>41</sup> Generally, as we concluded above, a health care district that receives revenue from an ad valorem property tax would be a local government entity for purposes of article XIIB because those revenues constitute the proceeds of taxes. But the appropriation of

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<sup>35</sup> Ballot Pamp., Special Statewide Elec. (November 6, 1979), *supra*, at p. 18; *Oildale, supra*, 215 Cal.App.3d at p. 1632.

<sup>36</sup> See *Oildale, supra*, 215 Cal.App.3d at p. 1633.

<sup>37</sup> Ballot Pamp., Special Statewide Elec. (November 6, 1979), *supra*, at p. 18.

<sup>38</sup> Cal. Const., art. XIII A, § 1, subd. (a).

<sup>39</sup> See *San Francisco & S.M. Elec. Ry. Co. v. Scott* (1903) 142 Cal. 222, 229.

<sup>40</sup> This conclusion is also consistent with the court's reasoning in *County of Placer v. Corin, supra*, 113 Cal.App.3d at page 451.

<sup>41</sup> Cal. Const., art. XIII A, § 1, subd. (b).

revenue to pay the principal and interest of certain types of indebtedness is specifically exempted from the Gann limit.<sup>42</sup> Therefore, it is our opinion that the Gann limit applies to a health care district that receives revenue from a special ad valorem property tax levied to pay the principal and interest on specified types of indebtedness, but that the appropriation of those particular revenues would not be subject to the Gann limit.

### 2.3. Special tax

A special tax is a tax that is levied for a specific purpose.<sup>43</sup> Accordingly, a tax is a special tax if the use of the revenues derived from that tax is limited to a specific purpose or specific purposes. This purpose is interpreted broadly to include a tax levied to generally support the operations of a special district.<sup>44</sup> For example, in *Neilson v. City of California*, *supra*, 133 Cal.App.4th at pages 1310-1312, the court held that a parcel tax levied to support public safety services, parks and recreation, street repair and maintenance, and water services was a special tax because it was levied to support specific governmental purposes. A health care district may levy a special tax, such as a parcel tax,<sup>45</sup> if (1) all the hospitals within the jurisdiction of the district are wholly owned and operated by the district, (2) the tax applies uniformly to all taxpayers or real property within the district, and (3) the district complies with certain procedures set out in the California Constitution and in statute, including specified voter approval.<sup>46</sup>

It is our view that if a health care district levies a special tax, then any revenue earned from that special tax would be proceeds of taxes. Thus, in our opinion, the Gann limit

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<sup>42</sup> Cal. Const., art. XIII B, § 8, subd. (g), § 9, subd. (a).

<sup>43</sup> A general tax, which a health care district may not levy, is levied to support general governmental purposes. (Cal. Const., art. XIIC, § 2, subd. (a).) A general tax may be used for any and all governmental purposes. (*Neilson v. City of California City* (2005) 133 Cal.App.4th 1296, 1309.)

<sup>44</sup> *Hoogasian Flowers, Inc. v. State Board of Equalization* (1994) 23 Cal.App.4th 1264, 1281-1284 (tax levied by a special district for the purpose of supporting education was a special tax).

<sup>45</sup> A parcel tax, which is a flat tax on a parcel of real property without regard to the property's value, is distinguishable from an ad valorem property tax because a parcel tax is assessed without regard to the value of the property. (*Heckendorn, supra*, 42 Cal.3d at p. 487.) As such, a parcel tax would not be subject to the limitations on ad valorem property taxes in the California Constitution. (*Ibid.*) For example, as stated above, the ad valorem property tax rate in a county may not exceed 1 percent of the assessed value of the property (Cal. Const., art. XIII A, § 1, subd. (a)), and special ad valorem property tax revenue must be used for certain purposes. (See Cal. Const., art. XIII A, § 1, subd. (b).)

<sup>46</sup> Gov. Code, § 53730.01; see also Cal. Const., art. XIII A, § 4.

applies to a health care district that levies a special tax, and a nonexempt appropriation of that revenue would be subject to the Gann limit.<sup>47</sup>

#### 2.4. User fees and special assessments

Lastly, a health care district may impose various fees for its services.<sup>48</sup> Any revenue earned from a fee that does not exceed the reasonable costs of the health care district for providing the service is expressly exempted from the definition of proceeds of taxes.<sup>49</sup> Accordingly, it is our opinion that an appropriation of revenue earned by a health care district from user fees for services that do not exceed the reasonable costs of providing those services does not render a health care district subject to the Gann limit, and that an appropriation of that type of revenue would not be subject to the Gann limit.

A health care district may also levy a special assessment by complying with certain procedures set out in statute and in the California Constitution.<sup>50</sup> A special assessment is a levy or charge assessed on real property within a defined area in order to pay for a special benefit conferred on that property. Historically, a special assessment is distinguishable from a tax because a special assessment only benefits property within a defined area, while a tax benefits the public in general.<sup>51</sup> As such, in our view, revenue earned from a special assessment would not be proceeds of taxes, as defined by article XIII B.<sup>52</sup> Accordingly, it is our opinion that an appropriation of revenue earned by a health care district from a special assessment does not render a health care district subject to the Gann limit, and that an appropriation of that type of revenue would not be subject to the Gann limit.

### 3. Conclusion

In summary, it is our opinion that the revenues earned by a health care district from the countywide allocation of the general ad valorem property tax, from any special tax that the local health care district may have levied, from the investment of tax revenues, or from subventions received from the state, except as specified, are proceeds of taxes and subject to the Gann limit, unless the revenue is appropriated for an exempt purpose or unless appropriations of the district are exempt from the Gann limit. It is also our opinion that revenues appropriated by a health care district from a special ad valorem property tax levied by the health care district to pay the principal and interest on specified types of indebtedness are proceeds of taxes but are not subject to the Gann limit. In addition, in our opinion, revenues from user fees and special assessments are not proceeds of taxes, and the

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<sup>47</sup> *Oildale, supra*, 215 Cal.App.3d at p. 1633.

<sup>48</sup> Health & Saf. Code, § 32125.

<sup>49</sup> Cal. Const., art. XIII B, § 8, subd. (c).

<sup>50</sup> Health & Saf. Code, div. 23, ch. 3, art. 3 (§ 32240 et seq.); Cal. Const., art. XIII D.

<sup>51</sup> *County of Placer v. Corin, supra*, 113 Cal.App.3d at p. 450.

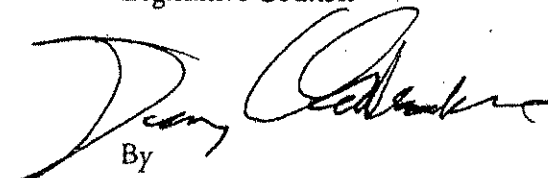
<sup>52</sup> *Id.* at pp. 452-454; see also *City Council v. South* (1983) 146 Cal.App.3d 320, 332-335.

Honorable Richard S. Gordon — Request #1301612 — Page 9

appropriation of those revenues would not be subject to the Gann limit. If a health care district receives revenue from multiple sources, some of which is proceeds of taxes, then it is also our opinion that nonexempt appropriations by the health care district of revenue that is proceeds of taxes would be subject to the Gann limit.

Very truly yours,

Diane F. Boyer-Vine  
Legislative Counsel



By  
Daniel S. Vandekoolwyk  
Deputy Legislative Counsel

DSV:sjk

**LAFCO MEETING:** April 3, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** UPDATE ON GUADALUPE COYOTE RESOURCE CONSERVATION  
DISTRICT'S IMPLEMENTATION OF THE RECOMMENDATIONS OF  
LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW REPORT

**FOR INFORMATION ONLY**

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Attached for your information is the Guadalupe Coyote Resource Conservation District's 2012-2017 Long Range Plan (Attachment A) which was adopted by the District's Board on March 13, 2013. Attached is the District's Draft Annual Work Plan (Attachment B) which the District's Board will consider for adoption at its next meeting.

The District expresses its gratitude to LAFCO for the constructive recommendations that LAFCO provided through the Service Review process and indicates that it believes that implementing these measures will be critical to improving the quality, quantity, efficiency and effectiveness of the District's services and programming.

In December of 2011, LAFCO adopted the 2011 Countywide Water Service Review Report that included several recommendations for improving the services and governance of water and resource conservation districts in the county. The Commission specifically requested that GCRCD return to LAFCO within a year with a plan for services which does not overlap with the Santa Clara Valley Water District's (SCVWD's) efforts and could not otherwise be provided by SCVWD through its enabling act. At which time LAFCO would re-evaluate the GCRCD and its Sphere of Influence at that time considering the District's plan and application for providing new or different services per Government Code § 56654(b) and § 56824.12.

LAFCO staff will continue to monitor the District's implementation efforts and provide updates to the Commission, as appropriate.

**ATTACHMENTS**

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Attachment A: GCRCD's 2012-2017 Long Range Plan

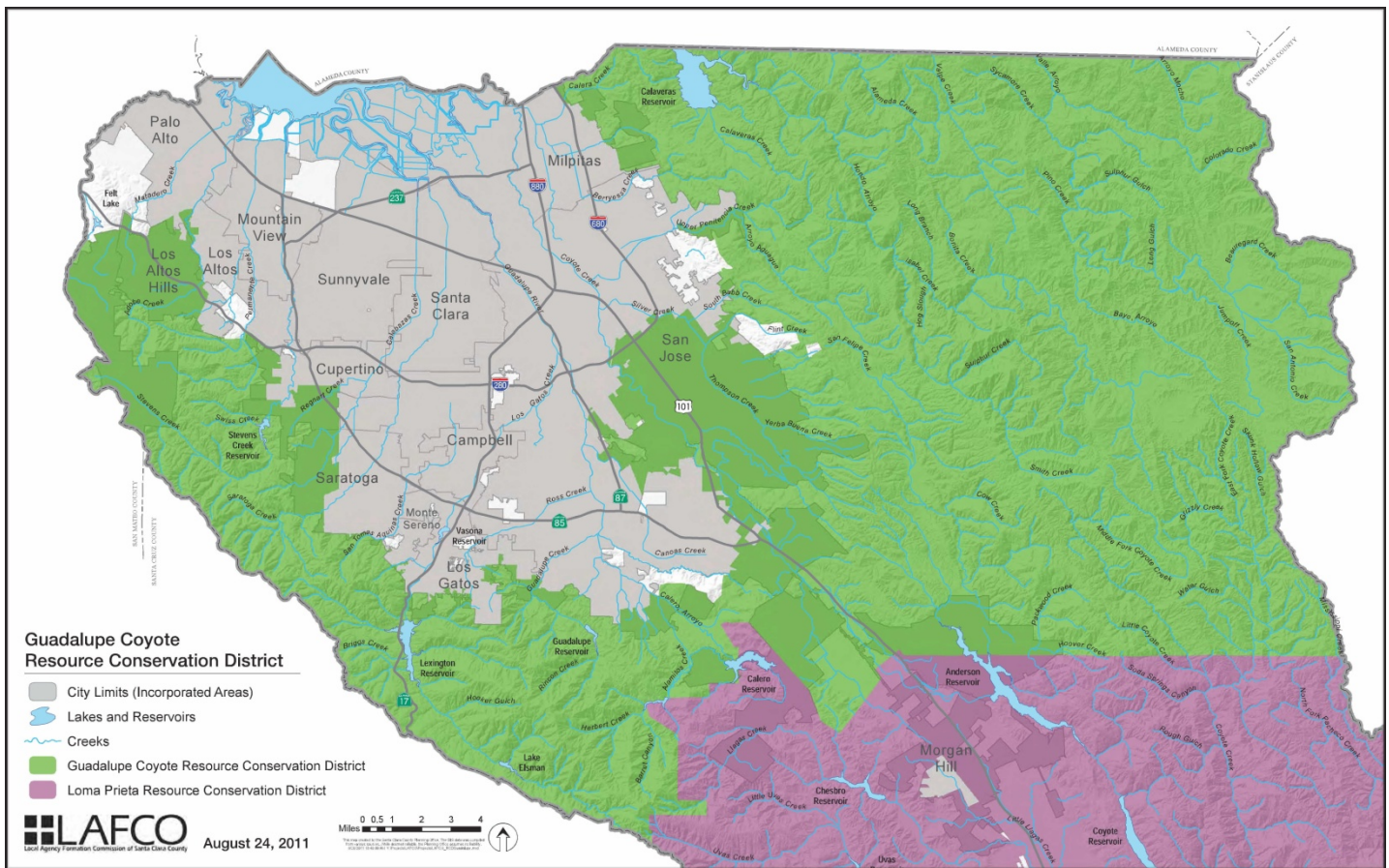
Attachment B: GCRCD's Draft 2013-2014 Annual Work Plan





# GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT

## Long Range Plan 2013-2018



North First Street, Room 204  
San Jose, CA 95112-6314

Adopted:  
March 13, 2013

## Guadalupe-Coyote Resource Conservation District

### Long Range Plan 2013 - 2018

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#### **INTRODUCTION**

The Guadalupe-Coyote Resource Conservation District (GCRCD) is a special district of the State of California, organized under Division 9 of the California Public Resources Code. The GCRCD is a locally governed agency with a locally-appointed, independent board of directors.

The purpose of the Guadalupe-Coyote Resource Conservation District's (GCRCD) Long Range Plan is to identify long-range opportunities and needs for the conservation and development of natural resources within the district. This plan is a requirement under Division 9 of the California Public Resource Code. This Long-Range Plan will:

- Describe the District's purpose and function.
- Provide the District's history
- Define the District's Mission
- Describe the physical setting of the District's area
- Identify the District's Resource Planning Priorities
- List the District's long range goals
- Describe how these goals will be realized

This Long-Range Plan was developed in public strategic planning sessions held in a matter consistent with the Brown Act, and included the District's Board of Directors as well as a range of agency, agriculture and other resource conservation partners.

#### **PURPOSE & FUNCTION**

The Soil Conservation Service was authorized by Federal Legislation in 1937 under the Standards Act. California adopted a compatible State provision in 1938 establishing Soil Conservation Districts which is expressed in Division 9 of the Public Resources Code (PRC) Sections 9001 et seq. These provisions have been amended through the years to reflect the changing needs of all those affected and changing environmental conditions. In 1971 the Districts were renamed " Resource Conservation Districts" (RCD's) and their powers were expanded to reflect a broader definition of interest including soil and water conservation projects, wildlife habitat enhancement and restoration, control of exotic plant species, watershed restoration, conservation planning, education and many other related resources including fish and wildlife habitat.

The purpose of the Public Resources Code Section 9001 (a) (1) is to secure the adoption in this state of conservation practices including but not limited to farm,

range, open space, urban development, wildlife, recreation, watershed, water quality and woodland, best adapted to save the basic natural resources (soil, water, and air) of the state from unreasonable and economically preventable waste and destruction.

Section 9001 (a) (2) provides for the organization and operation of resource districts for the purposes of soil and water conservation, the control of runoff, the prevention and control of soil erosion, and erosion stabilization, including, but not limited to, these purposes in open areas, agricultural areas, urban development, wildlife areas, recreational developments, watershed management, the protection of water quality and water reclamation, the development of storage and distribution of water, and the treatment of each acre according to its needs.

Under PRC Section 9001 (b) (-1) the District has legal authority to cooperate with the United States, this state, counties, cities, public districts, other resource conservation districts, persons, associations and corporations.

Additionally, 9001 (b) (-2) with the consent of the owner authorizes RCD's to construct on private-or publicly-owned lands, "necessary works for the prevention and control of soil erosion and erosion stabilization." The California Legislature determined that the construction and maintenance of conservation projects on publicly or privately owned lands in or adjacent to District lands is in the public interest and for the general public benefit. And, the expenditure of state, county, city, district or other public funds for planning, designing or implementing conservation works constitutes expenditure for the general public benefit.

RCD's are not rule-making or regulatory agencies, but can advise individual members of the public and provide local leadership to foster interagency cooperation and coordination on natural resource projects on both public and private lands. Because the RCD is empowered under both federal and state legislation, agencies at all levels of government have a responsibility to provide expertise and to otherwise assist and cooperate with the RCD on natural resource projects. This is strengthened by additional inter-agency Memorandums of Understanding. Also, certain forms of federal assistance are available only through Resource Conservation Districts.

The primary duty of District Directors is to guide proper land use and management of natural resources within the District. In fulfilling this duty, Directors:

- Provide local leadership in the field of resource conservation to district landowners, local units of government and authorities, and district staff.
- Hold and attend regular meetings to determine local needs and to implement active conservation programs.
- Develop Long Range and Annual Resource Conservation Programs consistent with current trends and local needs.
- Establish program priorities for resource conservation tasks.
- Manage district finances, staff, facilities, and equipment.
- Enlist and coordinate help on conservation programs with other agencies, groups, interested persons, organizations, and units of Government.

- Sponsor information and education events, training sessions, meetings, and workshops to make people more aware of the need to protect natural resources and to help landowners correct conservation problems.
- Attend local, state, and national meetings to keep abreast with changing conservation techniques and resource issues.
- Serve as a community clearinghouse for information and services.

## **HISTORY**

The Evergreen Soil Conservation Service District was formed in 1944 and originally covered about 10,000 acres on the north east side of the Santa Clara Valley, largely the Silver Creek Watershed. It later expanded to include most of the land on the east side of Santa Clara Valley which included a large portion of the Coyote Creek Watershed just north of Morgan Hill. The District boundary extended to the Alameda and Stanislaus County lines excluding then-urban city lands.

In 1971 Soil Conservation Districts were renamed Resource Conservation Districts. In 1972 the Evergreen Soil Conservation District was renamed the Evergreen Resource Conservation District.

In 1977, the Evergreen District merged with the Black Mountain District. The Black Mountain Soil Conservation District had been organized in 1943 to cover some 5,500 acres of the Calabazas Watershed on the west side of Santa Clara Valley. It had later expanded to cover most of the hill and upper watershed land on the west side of the valley from just south of the San Mateo County line to Loma Prieta Mountain and the boundary of the Loma Prieta Soil Conservation District. Most urban land at the time was excluded, as was Stanford University land.

The combined Districts carried the name of the Evergreen Resource Conservation District until 1995, when its name was changed to the Guadalupe-Coyote Resource Conservation District to better reflect the District's boundaries. The Guadalupe and Coyote Watershed are the two largest watersheds in the District, bounding the District on the west and east sides of the Santa Clara Valley.

## **MISSION STATEMENT**

To achieve conservation of resources in accordance with Division 9 of the Public Resources Code, the Guadalupe-Coyote Resource Conservation District will promote sustainable agriculture.

The District supports well-defined urban boundaries for the preservation of open space and farmlands for the proper long-term redevelopment of our cities into sustainable partners in their bioregions.

We will promote proper rangeland management practices for the preservation of species diversity and proper watershed management of wetlands and riparian corridors for protection of wildlife, aquatic resources and water quality.

We believe that biodiversity and habitat preservation for other species is of crucial importance for future generations.

## PHYSICAL SETTING

The District boundaries include most of the hilly and mountainous upper watershed land surrounding the Santa Clara Valley on the eastern side. The narrow part of the valley north of Morgan Hill, and the southeast portion of the valley in the City of San Jose are included. Much of the urban area of the northwestern portion of the county, mostly lying within the low, flat land section of the Santa Clara Valley is not in the District.

The boundary on the western side of the valley lies just below the San Mateo County line in the Los Trancos Creek watershed extending to the Santa Cruz County line and southwest to Loma Prieta Mountain and the Loma Prieta Conservation District boundary. The middle urbanized portion of Santa Clara County is not included in District land.

The eastern part of the District includes the Diablo Mountain Range extending to the Stanislaus County line and the Alameda County line in Santa Clara County. The District lands then extend southeast from the Alameda County line by Calero Creek, through Upper Penitencia Creek and several others to the uppermost watershed of Coyote Creek ending just north of Anderson Reservoir. Great diversities of climate, vegetation, topography, geology, soils, population density and land use lie within the area.

The District area encompasses at least a portion of ten distinct watersheds that drain to the lower portion of San Francisco Bay. Seven of these watersheds drain the northeast and east facing slopes and one drains the north facing slopes of the Santa Cruz Mountains. Two drain the west facing slopes of the Diablo Range.

### Santa Cruz Mountains

High rainfall, up to 60 inches per year, confined to the winter months, with considerable nighttime summer fog and generally moderate, but occasionally high daytime temperatures in the summer and freezing temperatures in the winter characterize the Santa Cruz Mountains.

Topography is generally steep sloped, with a maximum elevation of 3,791 feet on Loma Prieta Mountain on the southerly end. The San Andreas Fault zone lies along the Santa Cruz Mountains, generally parallel and approximately one-mile easterly of the Santa Cruz County line. Numerous related faults lie to the east of the San Andreas within the Santa Cruz Mountains block and are more or less parallel to the main fault.

Vegetation is dense on the westerly side and less dense towards the Santa Clara Valley floor as precipitation diminishes. Redwood, Douglas fir, madrone, laurel, tanbark oak, black oak, live oak and bigleaf maple are the principal tree species with some areas of dense brush composed of ceanothus, chamise, manzanita, and poison oak. Southeast of Los Gatos Creek, redwood and Douglas fir are usually absent and knobcone pine appears in some isolated areas. Bush species are more wide spread to the southeast of Los Gatos Creek.

The more gentle slopes, usually ridge tops, were cleared and planted with fruit trees in the late 1800's and early 1900's. Apple and pear orchards were most

prevalent, as were vineyards. Several areas, particularly near the Los Gatos-Santa Cruz Highway, were developed in the 1920's as summer home sites. On the lower slopes, next to the Santa Clara Valley floor, prune, apricot and some almond orchards were planted on the cleared land in the late 1800's and early 1900's. These plantings on the lower slopes were abandoned toward the middle part of the 1900's. In recent years the summer home areas have been converted to permanent housing and construction of new homes has increased, not only in the foothill areas, but also at higher elevations. Several vineyards continue to flourish on the eastern slope of the Santa Cruz Mountains, and open space preserves include small farms open to the public (e.g. Deer Hollow Farm or Hidden Villa).

San Francisquito Creek, Matadero/Barron Creeks, Adobe Creek, Permanente Creek, Stevens Creek, Calabazas Creek and San Tomas Aquino/Saratoga Creek watersheds drain the northeast and east facing slopes of the Santa Cruz Mountains, originating on the east side of Skyline Boulevard (State Highway 35). Each of these creeks flow across the western portion of Santa Clara Valley to the Baylands bordering the west and southwest sides of San Francisco Bay. The Guadalupe River watershed drains the north facing slopes of the Santa Cruz Mountains at the southern end of the Santa Clara Valley. The Guadalupe River flows north through the valley and into the south end of San Francisco Bay via Alviso Slough. It is the second largest watershed in the Santa Clara Basin.

### Santa Clara Valley

The Santa Clara Valley, lying between the Santa Cruz Mountains on the southwest and the Diablo Range on the northeast, has a climate greatly modified by San Francisco Bay. Precipitation varies from 12 inches at the middle of the widest portion of the valley in the northwest to 16 inches at the base of the Diablo Ranges. Approximately 18 inches of rain falls on the extreme southeast edge of the District and 21 inches along the southwesterly edge of the valley.

In the 19th century, the valley floor was mostly used for grain production. The advent of irrigation introduced orchard planting, resulting in the most concentrated prune, apricot, cherry, and pear growing areas in the world, with lesser orchards of walnuts, almonds, peaches, and apples. Grain production almost disappeared as much of the land that failed to be turned into orchards was used for vegetable production. Some small areas with poor drainage were used for dairies. After World War II, the incoming population rapidly increased, creating an ever-increasing demand for housing, replacing the orchards with homes. During the same period economic returns on orchards began to decrease in relation to vegetable crops, resulting in a further reduction in the number of the orchards.

At the present time, most of the valley floor is comprised of housing, businesses or industry with a few small orchards and a small amount of bare land remaining in the northwest portion of the County. Some vegetable production still continues in the narrow southeastern portion of the valley above Coyote Creek. Vegetables are still grown in limited areas west of Milpitas.



## Diablo Mountains

Precipitation over the Diablo Range varies from 20 to 30 inches with greater amounts over the higher elevations. Summer daytime temperatures at lower elevations (2,000 ft.) are high in the eastern portion of the area, while wintertime minimum temperatures are lower than in the Santa Clara Valley or Santa Cruz Mountain areas.

Calaveras, Hayward, Silver Creek and lesser faults, mostly parallel to one another, are located in the western portions of the Diablo Range. Faults in the eastern portions are not as numerous as in the western section. Ancient landslides are abundant on the slopes facing the Santa Clara Valley and slides continue to this day.

Grasslands or woodland areas prevail over most of the western portion of the range and brush is prevalent over much of the eastern portions. Both brush and woodland are denser over the northeastern slopes. At higher elevations (Mt. Hamilton at 4213 ft. is the highest peak) coulter pine, ponderosa pine and black oak form light stands with digger pine and blue oak comprising the main tree species elsewhere. Scattered juniper is found in the eastern areas.

Brush clearing, particularly in the more eastern portions of the Diablo Range, has been common to improve the pastureland for grazing. Large cattle ranches are the rule in this section except for the slopes near the valley floor on the southwest. Prune and apricot orchards were established in the late 1800's and early 1900's on the slopes adjacent to the Santa Clara Valley. These orchards were abandoned much more slowly than their counterparts on the southwestern side of the valley and a few still remain. Construction of homes has lagged considerably behind that on the southwestern side of the valley but is accelerating as the population expands to the southeast.

The west facing slopes of the Diablo Range in the southern and southeastern portions of the Basin are drained primarily by Coyote Creek. The Coyote Creek watershed is the largest in the Santa Clara Basin. Coyote Creek flows the full length of the valley from south to north at the base of the Diablo Range before entering the southeast side of San Francisco Bay. The Lower Penitencia Creek watershed drains the foothills of the Diablo Range in the northeastern portion of the Basin.

### **RESOURCE ISSUE PRIORITIES:**

In collaboration with agricultural and resource conservation partners, the GCRCD has identified priority issues of concern for the purposes of resource conservation planning. These issues include (listed alphabetically):

- Agricultural Resources
- Grazing Resources
- Habitat Resources: Conservation and Restoration
- Invasive Plant Control
- Soil Resources: Conservation and Erosion Control
- Urban and Rural Interface

- Water Resources: Conservation and Quality
- Wildfire Hazards: Fuel Loading

## **LONG RANGE GOALS**

To address identified priority resource issues of concern, the GCRCD will focus its efforts on achieving goals within the following four general program areas:

- Watersheds & Wildlife
- Grazing & Grasslands
- Crops and Communities
- Education & Outreach

General and specific objectives for each program area are as follows:

### Watersheds & Wildlife:

The GCRCD will phase out previous program work on flood control and related main-stem river projects that overlap and/or duplicate work being carried out by other agencies and/or special districts in Santa Clara County, including the Santa Clara Valley Water District (SCVWD), and are outside of District boundaries. Instead, the District will shift its focus to lower order/headwater streams within District boundaries. Watershed and Wildlife programming will focus on collaborative efforts that leverage organizational resources to provide cost efficient services for District ratepayers and ecologically effective approaches to protecting important watershed and wildlife resources within District boundaries. District activities will focus both on individual stream habitats and species, as well as the broader landscapes within District watersheds. Activities will include:

- Assisting revegetation and management of riparian areas through partnerships with local landowners and conservation partners.
- Supporting fire safety in the wildland-urban interface by working with fire safe councils and community groups.
- Providing technical and financial assistance to promote the use of native plants in hedgerows and landscaping.
- Assisting prevention of non-point source pollution through unique (i.e. non-duplicative) District programming and access to United States Department of Agriculture Farm Bill Program Grants available to the District through the Natural Resource Conservation Service (NRCS).
- Working with private land owners to support SCVWD, Santa Clara County Open Space Authority, and other districts/agency watershed programs. Programming will be coordinated to ensure that actions are complementary rather than competitive with other districts and/or agencies, and leverage District resources through cooperative district/agency partnership agreements.

### Grazing & Grasslands:

The GCRCD will work with grassland managers, cattle ranchers, and open space landowners to assist in the conservation of healthy working grasslands in the District. Activities will include:

- Supporting and expanding activities of the Alameda County RCD and Livermore NRCS Service Center in providing technical and financial assistance to cattle operations in the District service area through the EQIP program.
- Working with UC Extension, NRCS, and rangeland organizations to promote improved grazing management practices for rangeland health, productivity, water quality, native species and other natural resource values.
- Assisting control of noxious weeds with local landowners, the Santa Clara County Weed Management Area, and open space districts.
- Holding informational meetings and workshops with small-acreage livestock owners to manage manure and minimize impacts to water quality.

### Crops and Communities:

The GCRCD will work with local landowners and conservation partners to promote productive agriculture within the District while also conserving natural resources. Activities will include:

- Working with the Hollister NRCS Service Center to deliver EQIP and other financial and technical assistance programs to prime agricultural lands in the district, particularly the Coyote Valley.
- Supporting urban agriculture & food projects to increase productivity, reduce erosion, improve water quality and create hedgerow habitats for pollinators and native species dispersal/migration.
- Partnering with the Loma Prieta RCD and other partners to promote integrated pest management and improved air quality with intensive small-acreage vegetable growers.
- Supporting the adoption of improved food safety standards and food safety audits on farms within the District.

### Education & Outreach:

The GCRCD will work to provide information to residents of the district, increase awareness of natural resource issues, and connect land owners and natural resource managers to technical expertise and sources of project funding. Activities will include:

- Promoting the use of native species in landscaping for homeowners by partnering with the California Native Plant Society and other groups to assist homeowners in selecting appropriate low-water use species for their property, and by providing technical support for “do-it-yourself” projects.

- Working with groups such as the California Farm Bureau, the Community Alliance with Family Farmers, California Native Plant Society and the California Cattleman's Association to increase the presence of the GCRCD, expand into new program areas, and help target District programming on key natural resource issues.
- Co-sponsor workshops and symposia that promote innovative natural resources management and agricultural enterprises within the district.

## **GOAL REALIZATION**

To achieve program area goals, annual work plans will be developed to implement specific actions and measure progress toward goals of the Long Range Plan. In addition, the GCRCD will need to build and refine its organizational and technical capacity to better serve landowners and natural resource managers within our District boundaries. Capacity building steps will include:

### Revise/establish policy and management procedures for District staff and contract personnel:

- The District will review its existing policies and develop a comprehensive personnel policy. The District must have effective policies for hiring and managing employees, including policies for supervision, timekeeping, and performance review. These policies will ensure that tax funds are being responsibly spent, that employees are productive and well-trained, and that the District is a desirable employer that can attract qualified and effective personnel.
- The GCRCD will work with the California Dept. of Conservation, California Association of Resource Conservation Districts, California Special Districts Association, other RCD partners, and any other appropriate sources of advice and information for special districts in order to develop these policies. Personnel policies will address hiring, timekeeping, performance review, supervision, benefits, and training. The District will also develop policies for procuring the services of contractors and consultants to ensure that services provided to the district by non-employees are similarly productive and accountable.
- The District will also develop a staffing plan that will identify immediate and perceived future staffing needs. This plan will be reviewed and updated as part of both the short and long-term strategic planning process.

### Expand technical capacity of the District to address priority natural resource management needs:

In order to rapidly expand the technical capacity of the District in a cost effective and strategically flexible manner, the District will seek to partner with other organizations to bring new technical expertise to the District. The GCRCD will work with neighboring RCD's, open space organizations, and other appropriate stakeholders to share existing technical staff resources and/or cost-share on the hiring of new technical staff. This effort will include the development of

cooperative staffing agreements with the NRCS to assist with the delivery of EQIP technical and financial conservation support. These partnerships will be used to support RCD programs and meet technical staffing needs as District programs expand, while protecting critical flexibility with respect to District budgets and strategic priorities.

Establish policies and guidelines for reviewing development projects to increase transparency and provide consistency:

The GCRCD shall establish a policy for review of development projects, and ensure that the review of development projects shall be consistent with the role, vision, and goals of the GCRCD. Reviews of development projects should focus upon impacts as they relate to GCRCD efforts and programs, as established through the strategic planning process.

The GCRCD will also seek to partner with other organizations with similar/overlapping missions and/or authority to avoid duplication of project review efforts and the unnecessary expenditure of tax funds. In addition, the GCRCD will develop standards to determine which sorts of development projects shall be reviewed, which persons will be qualified to develop a review, and what technical criteria shall be followed by the reviewer. These standards will bring consistency to deciding which projects are reviewed, and to the content and structure of the reviews.

Update and populate the District's website with information on organizational structure and programming:

In order to achieve its long range goals, the District needs to act as a clearing house for information on effective management of natural resources and to provide information on the range of services that the GCRCD provides. The District must also ensure that it fulfills its responsibility to be accountable to taxpayers by making information about its policies, services, and finances accessible to the public. An updated and expanded website will allow the District to both share program information with landowners and natural resource managers, and to receive public feedback on District programs, budgeting priorities and policies.

The GCRCD will work with the California Dept. of Conservation, the California Association of Resource Conservation Districts, Local Area Formation Commission of Santa Clara County, the California Special Districts Association, and the NRCS to determine a procedure for deciding what information is to be shared on the website and what information is to be considered confidential. An information management policy will be developed to allow information necessary to foster greater transparency to be made accessible to the public while ensuring that private information (particularly as it relates to private landowners) is properly secured. The website of the GCRCD shall be redesigned and regularly updated to further this goal.

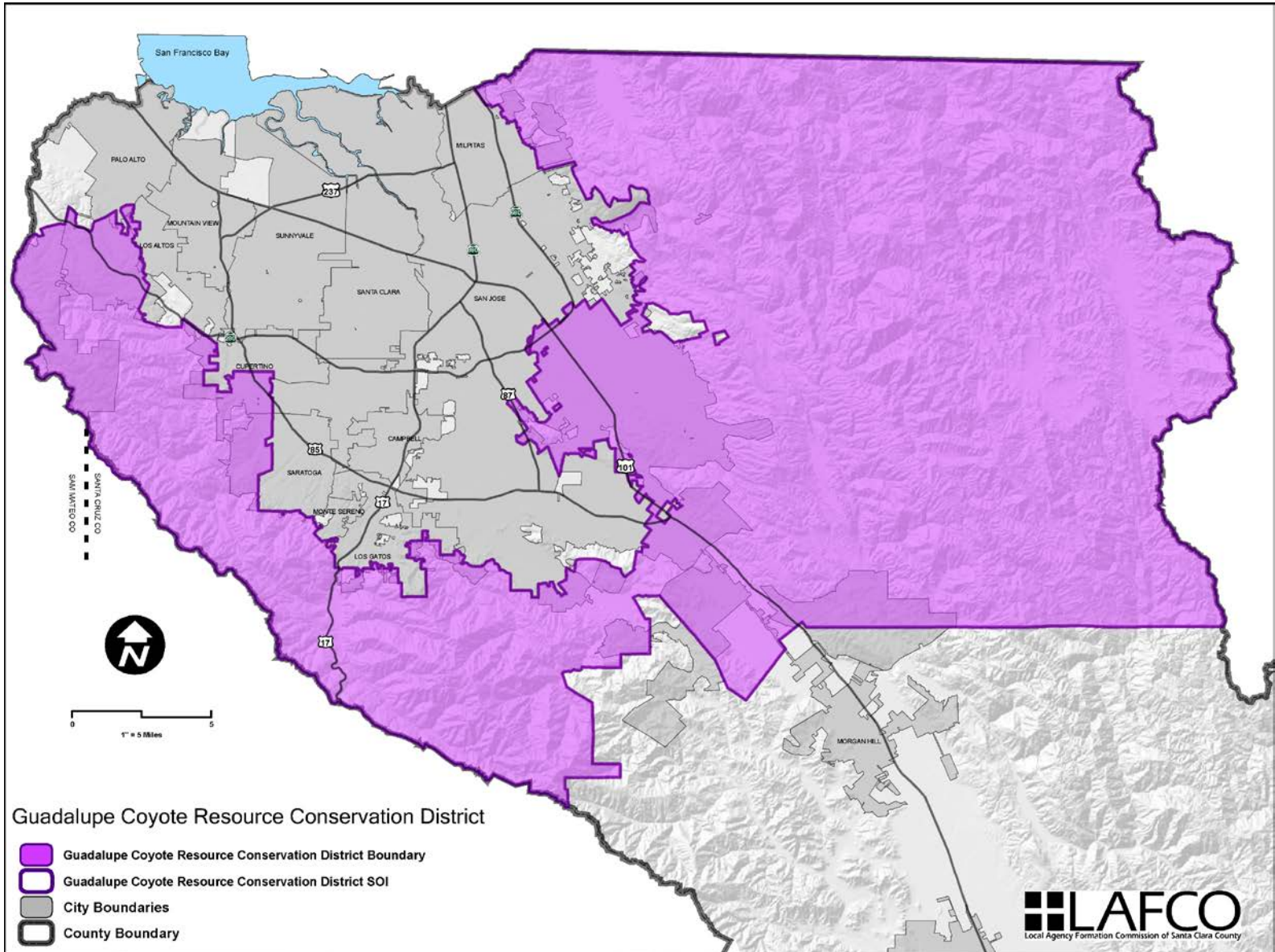
Information to be shared on the RCD website may include: District budgets, policies, project descriptions and other information that may help citizens within the District connect with the GCRCD and other appropriate conservation partners, meeting agendas and minutes, and contact information for staff members.

## **SUMMARY REPORT**

A report summarizing the District conservation activities and projects and their relationship to the Long Range Plan will be compiled annually. The Summary Report will be used in conjunction with the Long Range Plan as a decision making tool for selecting and prioritizing conservation activities for inclusion in the next year's Annual Work Plan.

Additionally, the Annual Summary Report may be used by the Directors to assess District progress towards conservation goals enumerated in the Long Range and Annual Plans, and to educate agencies and inform the general public about activities of the Guadalupe-Coyote Resource Conservation District. Report format (whether prepared as a newsletter, meeting minutes, standard report or multimedia publishing format) may vary from year to year, depending upon the will of the Directors.

### Appendix A: Location Map





## Appendix B – Collaboration and Partnerships

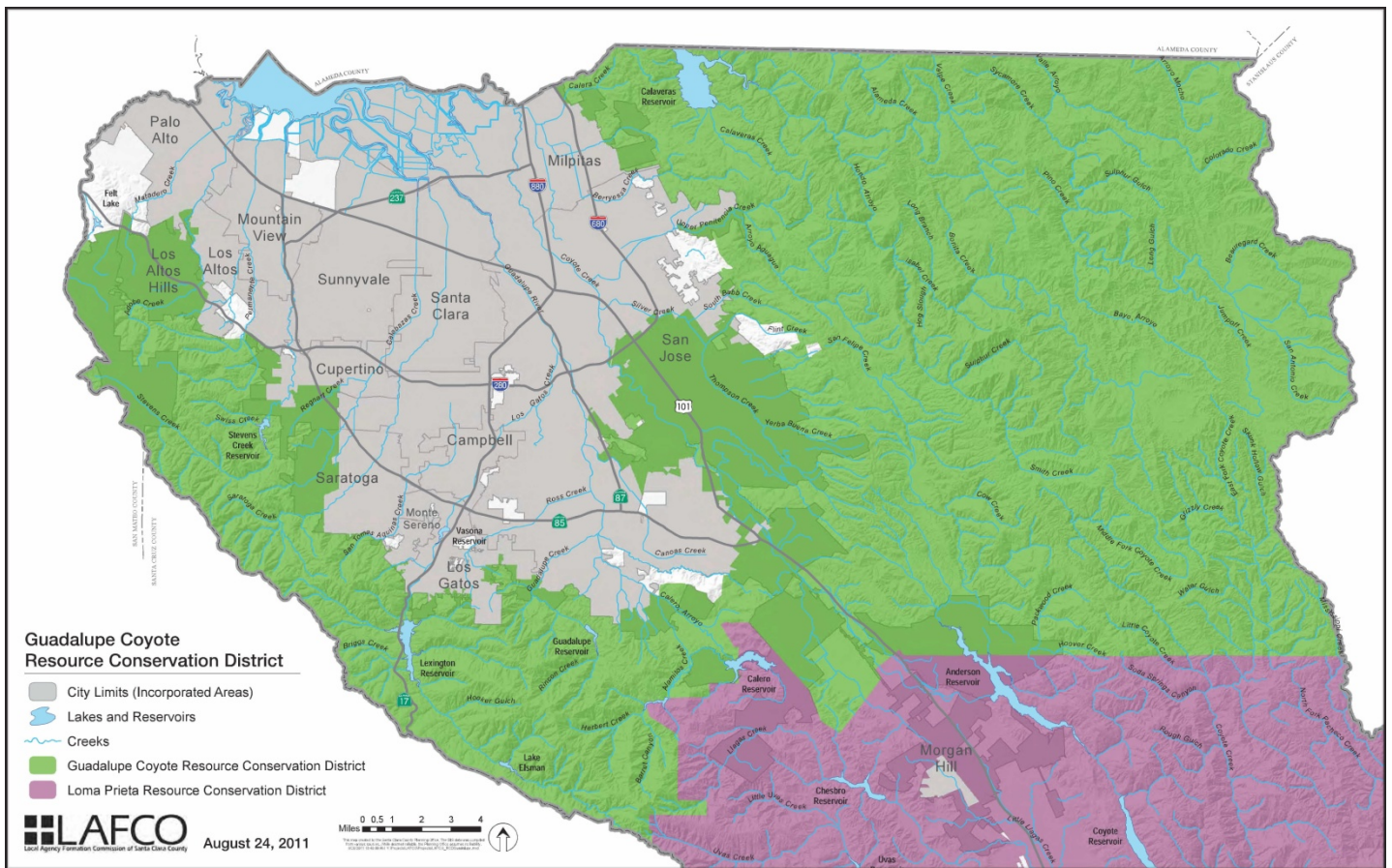
The GCRC D strives to work in partnership with other agencies, districts, local governments and organizations. The following is a partial listing of the agencies and organizations with which the District has developed collaborative partnerships:

- Acterra
- California Dept. of Fish & Game
- California Native Plant Society
- California Rangeland Conservation Coalition
- California Trout
- Children’s Discovery Museum
- City of San Jose
- City of Sunnyvale
- City of Santa Clara
- Clean South Bay
- Friends of Calabazas Creek
- Hidden Villa
- Loma Prieta Resource Conservation District
- Los Gatos High School
- Natural Heritage Institute (NHI)
- National Marine Fishery Service (NMFS)
- Pacific Coast Federation of Fishermen (PCFFA)
- Pioneer High School
- Regional Water Quality Control Board (RWQCB)
- San Jose Conservation Corps
- San Jose Flycasters
- San Jose Police Department
- San Jose Parks Department
- San Francisco Estuary Institute (SFEI)
- Santa Clara Basin Watershed Management Initiative (SCBWMI)
- Santa Clara County Board of Supervisors
- Santa Clara County Environmental Resources Agency
- Santa Clara County Farm Bureau
- Santa Clara County Open Space Authority
- Santa Clara County Urban Runoff Pollution Prevention Program
- Santa Clara Valley Audubon Society
- Santa Clara Valley Manufacturer’s Group
- Santa Clara Valley Water District (SCVWD)
- Silichip Chinook Salmon & Steelhead Restoration Group
- Stanford University, Hopkins Marine Station
- Streams for Tomorrow
- Sustainable Agriculture Education (SAGE)
- Technical Museum of Innovation
- Toxics Coalition
- Trout Unlimited
- United Anglers
- University of California Bodega Bay Marine Laboratory
- Urban Creeks Council, South Bay Chapter/Friends of the Guadalupe River
- U.S. Army Corps. of Engineers
- U.S. Environmental Protection Agency - Region 9 (EPA)
- U.S. Fish & Wildlife Service
- USDA Natural Resource Conservation Service
- Veggielution Community Farm
- Western Waters Canoe Club
- West Valley Clean Water Program
- Wildland Hydrology

# GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT

## Annual Work Plan

**2013-2014**



**North First Street, Room 204  
San Jose, CA 95112-6314**

**Adopted:  
Draft**

## ANNUAL WORK PLAN: MARCH 1, 2013 – JUNE 30, 2014

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The GCRCD Annual Work Plan for the latter half of fiscal year 2012/2013<sup>1</sup> and fiscal year 2013/2014 is designed to be consistent with the goals described in the 2013 to 2018 Long Range Plan (Grazing and Grasslands, Crops and Communities, Wildlife and Watersheds, Education and Outreach) with the addition of Administration.

The functions of this annual work plan include:

- Identification of high priority actions to be undertaken by the District during the coming year.
- Identification of specific tasks to be carried out.
- Involving the public, other agencies and resource conservation organizations in the District's planning process in order to help ensure support in implementing district plans.
- Demonstration of the relationship of annual tasks to the long-range district goals identified in the long-range work plan.

Within each long-range goal, specific tasks and desired outcomes are specified for each objective. Specific tasks and objectives may be periodically updated as the Board sees fit. Any such changes will be noted in the Annual Summary Report, which will be used in conjunction with the Long Range Plan as a decision making tool for selecting and prioritizing conservation activities for inclusion in the next year's Annual Work Plan.

### **Long Range Goal Area: Grazing and Grasslands**

1. Support land protection, range management, and habitat improvement in Upper Alameda Creek Watersheds
  - a. Meet and Consult with Partner Organizations, such as the Alameda County Resource Conservation District, the Rocky Mountain Elk Foundation, Trust for Public Land, San Francisco Utilities Commission, and others.
  - b. Conduct site visit to at least one landowner in the Upper Alameda Creek Watershed.
  - c. Develop Range or Habitat Improvement project in co-operation with the Alameda County RCD
2. Promote and assist Weed Management activities.
  - a. Attend Weed Management Area meetings.
  - b. Consult with the California Native Plant Society and the San Mateo RCD to expand existing efforts or build new ones.

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<sup>1</sup> 2012-2013 planned tasks and objectives were revised in early 2013 to reflect updates in the GCRCD's Long Range Plan, and included here with the 2013-2014 Annual Work Plan for clarity.

- c. Develop at least one private lands weed management project and submit a grant request for funding.
3. Partner with the Alameda County RCD to bring existing technical assistance into the GCRCD
  - a. Develop an MOU with the ACRCDD for collaboration and sharing of resources.
  - b. Work with ACRCDD and USDA-NRCS to create maps for the GCRCD and GCRCD clients.
  - c. Certify and authenticate GCRCD staff to use USDA-NRCS computers and data.
4. Reach out to Ranchers in the District in order to understand and provide assistance to their lands and businesses.
  - a. Attend local meetings and workshops of agency partners, Cattlemen's Association, and others.
  - b. Recruit one Board Member with ranching expertise.
5. Assist Small Acreage Livestock landowners.
  - a. Hire and coordinate with a consultant to hold at least one workshop for small-acreage livestock owners in the District.
  - b. Fund and assist workshops as necessary.
6. Enhance grassland habitats at the Arastradero Reserve.
  - a. Support field test plots by Acterra for serpentine grassland restoration.
  - b. Hold field day with Acterra to share project with partners.

### **Long Range Goal Area: Wildlife and Watersheds**

1. Conserve and enhance Bay Checkerspot and similar important pollinator species.
  - a. Identify conservation partners and potential projects.
2. Conserve and enhance habitat for Elk and similar upland wildlife species.
  - a. Coordinate activities with the Rocky Mountain Elk Foundation (RMEF).
  - b. Develop at least one habitat enhancement, rangeland management, or land protection project in cooperation with the RMEF.
3. Stream Restoration
  - a. Identify and conduct outreach to a landowner with a stream/watershed resource issue on their property that is of concern to the Santa Clara Valley Water District, but outside of the SCVWD's operating authority.
  - b. Conduct a site visit on the landowner's property with SCVWD.

- c. Seek to develop a stream restoration project in cooperation with SCVWD.
- 4. Support Fire Safety through vegetation management in the District.
  - a. Attend meetings of the Santa Clara County Fire Safe Council and develop the role of the GCRCD in their activities.
- 5. Support working landscapes and open space activities.
  - a. Outreach to Santa Clara County Open Space Authority, the Mid-Peninsula Open Space District, and others.
  - b. Recruit one Board Member with open space expertise.

### **Long Range Goal: Crops and Communities**

- 1. Support agricultural activities in the Coyote Valley
  - a. Work with agencies and landowners participating on the "Coyote Valley Agricultural Enterprise and Conservation" program concept.
  - b. Develop at least one project with a landowner in the Coyote Valley to promote agricultural sustainability or wildlife habitat.
- 2. Support Urban and Community Agriculture
  - a. Develop a new project with Veggielution Community Farm.
  - b. Assist Veggielution with a project submittal or grant writing.
- 3. Assist Cantonese-speaking farmers in the Coyote Valley
  - a. Attend Meetings for OASDFR program
  - b. Contribute to funding or implementation efforts
- 4. Promote energy efficiency and integrated pest management with Chrysanthemum Growers
  - a. Project Development with University of California Cooperative Extension (UCCE).
  - b. Hire contractor for Preliminary Engineering
  - c. Write Grant for Implementation of Pilot Project

### **Long Range Goal: Administration**

- 1. Hold meetings to allow the participation of the public in GCRCD process.
  - a. Hold regular, open and public meetings in compliance with the Brown Act
  - b. Hold special meetings as necessary.
- 2. Personnel
  - a. Update the GCRCD Employee Policy.

- b. Develop a timesheet and policy for timekeeping.
- 3. Financial
  - a. Improve efficiency of payment process for GCRCD expenses.
  - b. Improve district financial reports.
- 4. Update the GCRCD Website
  - a. Hire web consultant.
  - b. Post documents to site for easy access by the public.
- 5. Office Organization
  - a. Reorganize filing system to improve access.
  - b. Archive files that are necessary but not required for immediate access.
  - c. Purge outdated and unnecessary documents that do not contain information that must be preserved.







## Guadalupe-Coyote Resource Conservation District

888 North First Street Rm. 204, San Jose, CA 95112  
Office (408) 288-5888 Fax (408) 993-8728 e-mail: [gcrd@pacbell.net](mailto:gcrd@pacbell.net)

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**Item No. 8**  
Supplemental Information 1

March 27, 2013

*Via electronic mail*

Neelima Palacherla, Executive Officer  
LAFCO of Santa Clara County  
70 West Hedding Street  
11th Floor, East Wing  
San Jose, CA 95110  
[Neelima.palacherla@ceo.sccgov.org](mailto:Neelima.palacherla@ceo.sccgov.org)

**Re: Implementation of the Recommendations of LAFCO's 2011 Countywide Water Service Review Report**

Dear Ms. Palacherla:

Please find the attached Guadalupe-Coyote Resource Conservation District 2013-2017 Long Range Plan, which was adopted by GCRCD Directors on March 13, 2013. This five year plan was developed in response to LAFCO of Santa Clara County's 2011 Countywide Water Services Review Recommendations for Improving Accountability and Transparency, as well as Recommendations for Jurisdictional Boundary Changes to Improve Services or Governance. The adopted plan incorporates the helpful feedback we received from you and your staff, and we believe addresses the need for the GCRCD to provide services that do not overlap with Santa Clara Valley Water District (SCVWD) efforts or SCVWD's enabling act.

The GCRCD is grateful to LAFCO of Santa Clara County staff and Commissioners for providing thoughtful and constructive recommendations. We believe that implementing these measures will be critical to improving the quality, quantity, efficiency and effectiveness of GCRCD services and programming. The programmatic and administrative changes already being implemented by the District in response to the Water Services Review Recommendations will not only increase efficiency by eliminating overlap with SCVWD efforts, but will allow the District to renew its commitment to providing targeted, meaningful, and efficient natural resource conservation and agricultural support services within our District boundaries.

We look forward to working with you as we implement the 2013-2017 Long Range Plan, and please don't hesitate to contact Peter Townley or myself with any questions you may have.

Sincerely,

---

Carson Cox  
Consultant to Guadalupe-Coyote RCD



**LAFCO MEETING:** April 3, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** AGENCY REPORT OF PUBLIC OFFICIAL APPOINTMENTS: FORM 806

**FOR INFORMATION ONLY**

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Attached for your information is the California Fair Political Practices Commission's Form 806 (Attachment A) and frequently asked questions fact sheet (Attachment B). Form 806 is used to report additional compensation that officials receive when appointing themselves to positions on committees, boards or commissions of a public agency, special district, or joint powers agency or authority (FPPC Regulation 18705.5). Specifically, LAFCO must prepare and update Form 806 to reflect any LAFCO appointment of a commissioner to a position where the commissioner could receive at least \$250 in compensation in any 12-month period. Additionally, Form 806 must be posted on the LAFCO website and updated promptly as applicable changes occur.

Consistent with this requirement, LAFCO staff will prepare and update this form to reflect LAFCO's appointment of a commissioner to a LAFCO committee (e.g. Technical Advisory Committees and Finance Committee) and the associated compensation. Commissioners, including alternate commissioners, receive a \$100 per diem for attending LAFCO meetings, including LAFCO committee meetings. This compensation is in lieu of reimbursement for travel and other expenses incurred in attending the LAFCO meetings.

**ATTACHMENTS**

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Attachment A: Agency Report of Public Official Appointments: Form 806  
Attachment B: Frequently Asked Questions Fact Sheet Re: Form 806



**Agency Report of:  
Public Official Appointments**

**California  
Form 806**

For Official Use Only

<b>1. Agency Name</b>			Date Posted: _____ <i>(Month, Day, Year)</i>
Division, Department, or Region <i>(If Applicable)</i>			
Designated Agency Contact <i>(Name, Title)</i>			
Area Code/Phone Number	E-mail	Page ____ of ____	

**2. Appointments**

Agency Boards and Commissions	Name of Appointed Person	Appt Date and Length of Term	Per Meeting/Annual Salary/Stipend
	▶ Name _____ <i>(Last, First)</i>  Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i>  ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____  ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i>  Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i>  ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____  ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i>  Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i>  ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____  ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>
	▶ Name _____ <i>(Last, First)</i>  Alternate, if any _____ <i>(Last, First)</i>	▶ _____/_____/_____ <i>Appt Date</i>  ▶ _____ <i>Length of Term</i>	▶ Per Meeting: \$ _____  ▶ Estimated Annual: <input type="checkbox"/> \$0-\$1,000 <input type="checkbox"/> \$2,001-\$3,000 <input type="checkbox"/> \$1,001-\$2,000 <input type="checkbox"/> _____ <i>Other</i>

**3. Verification**

*I have read and understand FPPC Regulation 18705.5. I have verified that the appointment and information identified above is true to the best of my information and belief.*

\_\_\_\_\_  
*Signature of Agency Head or Designee*                      *Print Name*                      *Title*                      *(Month, Day, Year)*

Comment: \_\_\_\_\_



California Fair Political Practices Commission  
**Form 806 – Agency Report of  
Public Official Appointments  
Frequently Asked Questions**

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This fact sheet provides additional guidance and examples on how to report public official appointments. The Form 806 is used to report additional compensation that officials receive when appointing themselves to positions on committees, boards or commissions of a public agency, special district, or joint powers agency or authority. (FPPC Regulation 18705.5.)

This fact sheet cannot address all the different types of situations that may occur when officials receive additional compensation for appointing themselves to positions. Persons are encouraged to use the FPPC advice service for specific guidance.

The following FAQs address some common activities.

**Frequently Asked Questions**

1. Q. May an official recuse himself and leave the room while the other members of the council vote to appoint him to another agency position for which the official will receive a \$300 a year stipend? If so, does a Form 806 need to be posted?
  - A. Yes, an official may recuse himself and leave the room. If so, the Form 806 is not required. The Form 806 is only required if the official actually wants to participate in the vote for his appointment.
2. Q. May officials vote to appoint themselves to a standing or ad hoc committee of the public agency of which the official is a member even if such appointment is not required by law?
  - A. Yes, if the appointment is to a standing or ad hoc committee of the public agency of which the official is a member. If the official receives a stipend of \$250 or more for serving on the standing or ad hoc committee, the appointment must be reported on the Form 806.
3. Q. May officials vote to appoint themselves to serve on another governmental entity if the stipend is waived or results in less than \$250 in a 12-month period?
  - A. Yes. A Form 806 is not required to be posted. The Form 806 must be posted if the stipend would be at least \$250 in a 12-month period.



4. Q. At a city council meeting, city council members vote to appoint a member to the Transportation Commission. The Transportation Commission pays the officials' stipend. Which agency completes the Form 806?
- A. The agency that conducts the vote must complete the Form 806. In the example above, the city posts the Form 806 even though the officials are paid by the Transportation Commission.
5. Q. A member of the County Board of Supervisors is appointed to a water district board of directors. The water district board will make an appointment to place a water district board member on the board of an irrigation district. As a board member of the irrigation district, the official will receive a stipend of at least \$250 in a 12-month period. Which agency completes the Form 806?
- A. The agency that conducts the vote must complete the Form 806. In the example above, the water district must complete the Form 806.

***Statutory and Regulatory Authority***

Government Code Sections: 87100, 87102.5, 87102.6, 87102.8, 87103  
Regulations: 18705.5

**LAFCO MEETING:** April 3, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** EXECUTIVE OFFICER'S REPORT

**10.1 UPDATE ON SPECIAL STUDY ON IMPACTS OF THE POTENTIAL DISSOLUTION OF THE SARATOGA FIRE PROTECTION DISTRICT AND ANNEXATION OF ITS TERRITORY TO SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT**

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**For Information Only**

On June 4, 2012, LAFCO issued a Request for Proposals (RFP) for a professional services firm to prepare a special study on the impacts of the potential dissolution of the Saratoga Fire Protection District and annexation of its territory to the Santa Clara County Central Fire Protection District. LAFCO staff received a single proposal, from Economic & Planning Systems (EPS), in response to the RFP. However, due to the LAFCO Office's workload and priorities, this project was placed on hold until 2013. Staff has finalized a contract with EPS, who will begin the study soon.

In December 2011, LAFCO authorized staff to seek a professional service firm to conduct a special study on the impacts of dissolution of the Saratoga Fire Protection District (SFD) and annexation of its territory to the Santa Clara County Central Fire Protection District (CCFD), including a detailed analysis of the cost savings and fiscal impacts. The study will be used to inform LAFCO's decision on whether or not to initiate dissolution of the SFD and annex its territory to CCFD.

The Saratoga Fire Protection District (SFD) is an independent special district governed by a three-member elected board. The District covers a portion of the City of Saratoga and the adjacent unincorporated area. The Santa Clara County Central Fire Protection District (CCFD) completely surrounds the SFD and provides service by contract to the SFD. LAFCO's 2010 Countywide Fire Service Review indicated that approximately \$118,000 in annual administrative costs could be reduced by dissolving SFD and annexing its territory to CCFD.

## **10.2 CALAFCO ANNUAL CONFERENCE AUGUST 28 - 30**

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### **Recommendation**

Authorize commissioners and staff to attend the Annual Conference and direct that associated travel expenses be funded by the LAFCO Budget for Fiscal Year 2014.

### **Discussion**

The upcoming CALAFCO Annual Conference will be held in Lake Tahoe, California from Wednesday, August 28<sup>th</sup> to Friday, August 30<sup>th</sup>, just prior to Labor Day weekend. The conference provides an annual opportunity for commissioners and staff to gain additional knowledge about changes in LAFCO legislation, LAFCO policies and practices, and issues facing LAFCOs, cities and special districts across the state. The Proposed LAFCO Budget for Fiscal Year 2014 includes funds for staff and commissioners to attend the Conference.

### **ATTACHMENT**

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Attachment A: Save the Date Flier Announcing the 2013 CALAFCO Annual Conference



**ANNOUNCING...**

# **THE 2013 CALAFCO ANNUAL CONFERENCE**

**AUGUST 28-30, 2013  
LAKE TAHOE, CALIFORNIA**

**ITEM # 10.2  
Attachment A**



## **“CLARITY OF VISION: THE GOLDEN AGE OF LAFCO”**

*Join us as we celebrate the 50th Anniversary of LAFCOs!*



**HOSTED BY  
EL DORADO, NEVADA,  
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**Deluxe Rooms at \$169\*/night**

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# **SAVE THE DATE!**

*Conference details will be made available soon*

