



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rosalynn Hughey

SUBJECT: SEE BELOW

DATE: October 18, 2018

Approved

Date

10/18/18

COUNCIL DISTRICT: 8

SUPPLEMENTAL

SUBJECT: FILE NOS. PDC14-051 AND PD16-019. PLANNED DEVELOPMENT REZONING FROM THE A AGRICULTURAL ZONING DISTRICT TO THE PQP(PD) PLANNED DEVELOPMENT ZONING DISTRICT OF AN APPROXIMATELY 21.0-GROSS ACRE SITE TO ALLOW A MEDICAL CARE FACILITY WITH UP TO 248 BEDS ON AN APPROXIMATELY 3.0 ACRE PORTION OF THE SITE WITH THE REMAINING 18.0 ACRES TO BE RESERVED AS OPEN SPACE; A PLANNED DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF APPROXIMATELY 25 BUILDINGS/STRUCTURES, THE CONSTRUCTION OF A MEDICAL CARE FACILITY WITH UP TO 248 BEDS, AND THE REMOVAL OF SEVEN ORDINANCE-SIZE TREES ON AN APPROXIMATELY 3.0-ACRE PORTION OF A 21.0-GROSS ACRE SITE, ON THE EAST SIDE OF DOVE HILL ROAD, APPROXIMATELY 500 FEET NORTH OF HASSLER PARKWAY (4200 DOVE HILL ROAD).

REASON FOR THE SUPPLEMENTAL

Pursuant to the California Environmental Quality Act (CEQA), the City prepared an Initial Study and Mitigated Negative Declaration (IS/MND) for the Planned Development Rezoning and Planned Development Permit for Dove Hill Medical Care Facility project. The documents were circulated for public review between April 9, 2018 to April 30, 2018. Staff received four comments during the public circulation period. The IS/MND, supporting technical studies, and response to comments are available on the Planning Department's Negative Declarations/Initial Studies web site at: www.sanjoseca.gov/negativedeclarations.

Following City Council's action at the August 28, 2018 hearing to continue the hearing for the project, staff received additional public comments on the adequacy of the IS/MND. These

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comments are included in the public record and a supplemental memorandum responds to comments related to the adequacy of the IS/MND and compliance with CEQA was posted for the September 25, 2018 City Council hearing date. On September 25, 2018, the City Council continued this item to be heard on October 23, 2018.

Due to repeated and additional comments from the public during and after the continued hearing, staff directed the biologist to conduct a follow-up field survey to supplement information for the public record and to further address public comments relating to the biotics report. The purpose of this additional survey is to include an updated visit to the project site, particularly within the 18 acres that will remain open space, in order to respond to public comments regarding the proposed sewer line alignment.

The purpose of this supplemental memorandum is to inform the Council of the results of the recent site visit by the biologist in order to respond to public comments relating to biological impacts to serpentine habitat as it relates to the sewer line alignment. This memorandum also provides additional responses to the most recent public comments received in order to provide a complete environmental record for this project.

BACKGROUND

Previous comments received from the public on this project relate to 1) construction air quality impacts to nearby residents 2) CEQA public noticing, 3) visual impacts on nearby residents, 4) air quality impacts to future occupants, 5) noise impacts to future occupants, 6) loss of agricultural grazing land, 7) lighting impacts, 8) geologic hazards and the potential for landslides resulting from project construction, 9) hazardous materials such as naturally occurring asbestos on site, 10) traffic, and 11) impacts to sensitive habitat.

City staff responded to these comments in the formats specified below on the following dates:

- On July 12, 2018 (12 days prior to the Planning Commission meeting): Formal Responses to Comments on the Draft Initial Study/Mitigated Negative Declaration, available on the Planning Department's website at www.sanjoseca.gov/negativedeclarations.
- On August 17, 2018: Memorandum from Planning to City Council for the August, 28, 2018 City Council hearing, with attached responses to comments submitted prior to and during the July 25, Planning Commission Hearing, available here: <https://sanjose.legistar.com/LegislationDetail.aspx?ID=3601592&GUID=02E32318-E90A-4589-A69A-6035517FCDCD&Options=&Search=>
- On September 24, 2018: Supplemental Memorandum and associated attachments for the September 25, 2018 City Council Meeting available here: <https://sanjose.legistar.com/LegislationDetail.aspx?ID=3674261&GUID=33513DBE-B2F8-457C-97B2-2E266477745B&Options=&Search=>

Since the continued September 25, 2018 City Council hearing, staff continued to receive comments from the public regarding the potential impact of the project on the 18-acre serpentine grassland area that is proposed to be preserved as private open space.

ANALYSIS

The City received several comments related to the sewer alignment proposed through a portion of the 18 acres of proposed open space with potential serpentine grassland habitat.

To supplement the existing analysis of the biological resources in the full 21-acre project site, a reconnaissance-level field survey of the proposed sewer line alignment and a 100-foot buffer was conducted on October 9, 2018, by H. T. Harvey & Associates plant ecologist Matthew Mosher. The result shows that the serpentine bunchgrass grassland covers the majority of the survey area, but vegetation is sparse, with plant cover in many areas at less than 5%. A serpentine seep was also observed in the southern portion of the survey area with a diversion pipe that carries flows from the seep approximately 30 feet south to a cattle trough. Consistent with previous field surveys and information disclosed in the IS/MND (Section 4.4), the 18 acres of proposed open space are heavily grazed (disturbed) California annual grassland habitat and serpentine grassland. The field survey also identifies potential temporary disturbance during the installation of the sewer pipeline. In addition, as previously stated in the IS/MND, "The serpentine grassland in the 18-acre private open space area has in many areas been degraded by over-grazing and in other areas by the abundance of non-native vegetation. Nevertheless, it does provide habitat for sensitive serpentine-associated species." Therefore, consistent with findings disclosed in the IS/MND, the supplemental field survey reiterate that the occurrence of special status species could potentially still occur on site during flowering periods.

However, consistent with information disclosed in the IS/MND, the full project area is subject to the Valley Habitat Plan (VHP) conditions and fees which will include appropriate pre-construction surveys, identification of avoidance and minimization conditions during ground disturbance activities, and appropriate fees to be paid into an existing mitigation program under the VHP. Furthermore, the proposed project approvals include conditions and mitigation measures that pertain to the full development of the 21-acre site, including the 18 acres proposed as open space, that requires the reduction of potential impacts to biological resources to a less than significant level.

Based on the analysis disclosed in the IS/MND, associated biological reports and updates, and responses to comments, the Dove Hill Road Medical Care Facility project will not have a significant effect on the environment in that the IS/MND identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agreed to make project revisions that clearly mitigate the effects to a less than significant level, as defined in CEQA Guidelines §15369.5.

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Furthermore, the comments raised by the community did not provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND [CEQA Guidelines §15074(b)] and therefore, no further analysis is required.

/s/

ROSALYNN HUGHEY, Director
Planning, Building and Code Enforcement

For questions please contact Thai-Chau Le, Planner III, (408) 535-5658.

Attachment:

Dove Hill Road Assisted Living Project – Biological Resources Supplement by H. T. Harvey & Associates, dated October 16, 2018.



October 16, 2018

Amie Ashton
David J. Powers & Associates
1871 The Alameda, Suite 200
San Jose, CA 95126

Subject: Dove Hill Road Assisted Living Project – Biological Resources Supplement (HTH #2983-04)

Dear Ms. Ashton:

Per the request of Thai-Chau Le of the City of San Jose, H. T. Harvey & Associates has conducted an additional biological survey for the proposed assisted living facility located at 4200 Dove Hill Road, in San Jose, California. Specifically, we conducted a brief site visit to assess current conditions along the proposed sewer line alignment to supplement information previously provided in the 2009 Biotic Assessment¹ and the 2015 Biotic Assessment Update² for the project, and to facilitate the City's response to comments on the project's Initial Study/Mitigated Negative Declaration (IS/MND)³.

Methods

A reconnaissance-level field survey of the proposed sewer line alignment and a 100-foot buffer (Figure 1) was conducted on October 9, 2018 by H. T. Harvey & Associates plant ecologist Matthew Mosher, B.S. Matthew surveyed the area on foot in order to map the biotic habitats present and determine whether the site includes habitat capable of supporting special-status plant species.

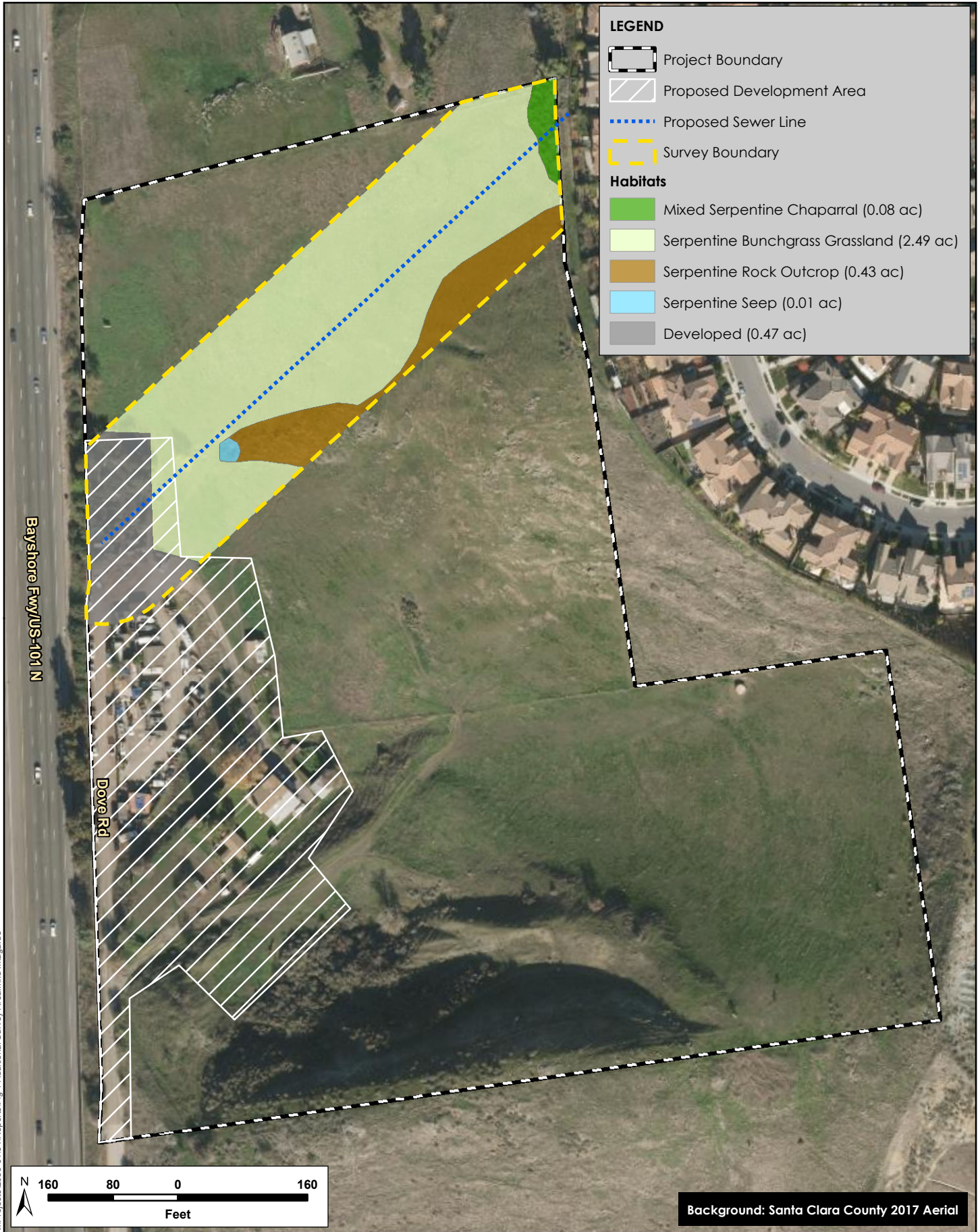
Results

Serpentine bunchgrass grassland (Photo 1) covers the majority of the additional survey area for the proposed sewer line. At the time of the survey, this habitat had been heavily grazed to the point where it was almost completely devoid of vegetation. Plant cover in many areas was less than 5%. While a comprehensive description of the plant species occurring in the survey area cannot be provided due to its heavily grazed nature, species that were observed include wild oat (*Avena* sp.), yellow star thistle (*Centaurea solstitialis*), naked buckwheat (*Eriogonum nudum*), and spikeweed (*Centromadia fitchii*). Although the vegetation composition described above is

¹ H. T. Harvey & Associates. 2009. Biotic Assessment (Revised), Dove Hill Road Assisted Living Project, San Jose California. (HTH #2983-01).

² H. T. Harvey & Associates. 2015. Biotic Assessment (2015 Update), Dove Hill Road Assisted Living Project, San Jose, California (HTH #2983-03).

³ City of San Jose. 2018. Initial Study Dove Hill Medical Care Facility Project. April 2018.



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H. T. HARVEY & ASSOCIATES
Ecological Consultants

Figure 1. Survey Area
4200 Dove Hill Road (2983-03)
October 2018

not necessarily indicative of serpentine habitat, the survey area is underlain by the Montara soil series⁴, which is considered a serpentine soil type, and serpentine rock was visible throughout the survey area. Therefore, based on our best professional judgment, the grassland within the sewer line survey area should be considered serpentine bunchgrass grassland.

A serpentine seep was also observed in the southern portion of the survey area. A diversion pipe carries flows from the seep approximately 30 feet south to a cattle trough. Nevertheless, enough moisture remains at the site of the seep to support seep monkeyflower (*Mimulus guttatus*), an obligate wetland species, which was still in full bloom during the October 2018 survey.



Photo 1. Serpentine bunchgrass grassland along the proposed sewer line alignment.

In addition, serpentine rock outcrops were observed along the eastern side of the study area. The interstitial areas between outcrops were similar in composition to the serpentine bunchgrass grassland described above. The rock outcrops themselves are relatively unvegetated; however, they support a population of Santa Clara Valley dudleya (*Dudleya abramsii* ssp. *setchellii*), a federally endangered species and a Santa Clara Valley Habitat Plan (VHP) covered species. Numerous senesced individuals of this species were observed in the rock outcrop near the southern boundary of the survey area during the October 2018 survey.

Discussion

The habitat observed within the proposed sewer line alignment during this reconnaissance survey is consistent with the description of the habitat provided in the IS/MND, which stated “The majority of the approximately 18-acre open space area to the north, east, and south of the developed area supports heavily grazed (disturbed) California annual grassland habitat and serpentine grassland.” In many areas, the serpentine grassland in the proposed open space has been degraded by over-grazing and in other areas by the abundance of non-native vegetation. Nevertheless, consistent with the findings in Section 4.4.3.1 of the IS/MND, serpentine bunchgrass grassland is designated as a natural community of special concern by the California Department of Fish and Wildlife (CDFW). Therefore, construction of the proposed sewer line would result in temporary adverse effects on this community due to equipment use and worker foot traffic, which may result in the injury or mortality of individual serpentine-associated plants.

⁴ Natural Resource Conservation Service. 2018. Web Soil Survey. U.S. Department of Agriculture. Accessed October 2018 from: <http://websoilsurvey.nrcs.usda.gov>

In addition, the serpentine grasslands have the potential to support several serpentine-associated special-status plants, including Metcalf Canyon jewel-flower (*Streptanthus albidus* ssp. *albidus*), a federally endangered species; most beautiful jewel-flower (*Streptanthus albidus* ssp. *peramoenus*), fragrant fritillary (*Fritillaria liliacea*), and smooth lessingia (*Lessingia micradenia* var. *glabrata*), which are all designated as California Rare Plant Rank 1B; and Santa Clara Valley dudleya, which has been observed on the site (refer to Section 4.4.1.2 of the IS/MND) during previous site surveys. Although the grasslands have been degraded by heavy grazing, the occurrence within serpentine grassland in the sewer line construction area cannot be ruled out without surveys conducted from early spring through late summer, during the flowering periods of these plants. The IS/MND states, “The serpentine grassland in the 18-acre private open space area has in many areas been degraded by over-grazing and in other areas by the abundance of nonnative vegetation. Nevertheless, it does provide habitat for sensitive serpentine-associated species.” Consistent with that finding, there is some potential for construction of the proposed sewer line to have both direct and indirect impacts on special-status plants. Proposed project activities may affect these plants through temporary disturbance of vegetation and habitat, and may affect them indirectly through damage to underground root structures. In addition, equipment use and worker foot traffic may result in the injury, mortality, altered growth or reduced seed set of individual serpentine-associated plants from trampling or crushing and habitat alteration through the removal of vegetation. Such impacts would be relatively short-term, as vegetation disturbed or removed by the trenching would be expected to recover the following year. However, if not avoided through the implementation of correct soil handling measures, the trenching activity could potentially mix serpentine soils with non-serpentine soils, thus making the edaphic conditions unsuitable for these and other serpentine-adapted plant species, and could bury the seedbanks of serpentine species, permanently preventing germination. Indirect impacts could include increased mobilization of dust onto plants, which can affect their photosynthesis and respiration. No direct impacts are expected to occur to the serpentine seep, but if not prevented, sedimentation from the trenching activities could degrade water quality within the wetland.

Consistent with previous findings, the proposed project is a covered project under the VHP and it would comply with VHP Conditions and the additional mitigation measures as identified in the IS/MND to reduce impacts on biological resources. The VHP defines measures to avoid, minimize, and mitigate impacts on covered species (including Metcalf Canyon jewel-flower, most beautiful jewel-flower, fragrant fritillary, smooth lessingia, and Santa Clara Valley dudleya) and their habitats while allowing for the implementation of certain “covered projects”. Chapter 6 of the VHP includes detailed and comprehensive conditions to avoid and minimize impacts on the 18 “covered species” included in the plan area. These conditions are designed to achieve the following objectives:

- provide avoidance of certain covered species during implementation of covered activities throughout the plan area;
- prevent take of individuals of certain covered species from covered activities as prohibited by law (e.g., take of fully protected species);

- minimize impacts on natural communities and covered species where conservation actions will take place; and
- avoid and minimize impacts on jurisdictional wetlands and waters throughout the study area to facilitate project-by-project wetland permitting.

Applicable VHP Conditions that will reduce project impacts on these species are:

- **Condition 13. Serpentine and Associated Covered Species Avoidance and Minimization.** The project will avoid impacts on serpentine bunchgrass grassland and all covered rare plant species, where feasible. If impacts cannot be avoided, the project will notify the Santa Clara Valley Habitat Agency (SCVHA) and comply with Condition 19, as needed.
- **Condition 19. Plant Salvage when Impacts are Unavoidable.** Where impacts on covered plant species cannot be avoided and plants will be removed by approved covered activities, the SCVHA has the option of salvaging the covered plants.
- **Condition 20. Avoid and Minimize Impacts to Covered Plant Species.** To comply with Condition 20, the project will avoid impacts on individuals of all covered rare plant species, where feasible. If avoidance is not feasible, the project proponent will implement measures to assess whether supplemental management actions are feasible and warranted, including post-construction monitoring, conservation measures, and potentially plant salvage as outlined in Condition 19.

In compliance with Conditions 13 and 20, the final alignment of the sewer line will be sited to avoid the greatest number of individuals of rare plants and serpentine rock outcroppings feasible. The currently proposed alignment would avoid direct impacts on serpentine rock outcroppings and therefore would minimize impacts on the Santa Clara Valley dudleya, the one rare plant known to be present on the site. Determination of whether realignment is necessary to minimize impacts on other rare plant species would require surveys for those species from early spring through late summer, during the flowering periods of these plants. Completion of a survey for special-status plants will be conducted prior to the onset of project activities as required for compliance with the VHP. Additionally, Best Management Practices (BMPs) will be implemented to avoid and minimize impacts on serpentine habitat and covered rare plants to the greatest degree feasible, per the requirements of the VHP.

As indicated above, the VHP requires that serpentine habitats such as those present in the sewer line area be subject to focused surveys for covered rare plant species during their bloom periods. Though the present survey was conducted during the published bloom period for smooth lessingia, the site had been too heavily grazed to conduct the required survey for any target species except Coyote ceanothus (*Ceanothus ferrisiae*), which is a shrub that would have been detectable if present. The area will thus require a full set of covered rare plant surveys as part of the VHP coverage process, which will include surveys in early spring for fragrant fritillary, mid-spring surveys for Metcalf Canyon jewel-flower, most beautiful jewel-flower, Tiburon paintbrush (*Castilleja affinis* var. *neglecta*), and Santa Clara Valley dudleya, and late summer surveys for smooth lessingia. Based on the condition of the site this year, we recommend that the land managers of the site greatly reduce grazing intensity, or if

possible cease grazing in the survey year, so that covered rare plant occurrences can be detected if any are present.

In addition, the project proponent would pay all applicable VHP fees. VHP impact fees applicable to project impacts on serpentine bunchgrass grassland and special-status plants would include general land cover fees as well as a serpentine impact fee specific to impacts on serpentine communities. VHP impact fees would be used to offset impacts on habitat through the preservation, restoration, and management of serpentine habitats on a regional basis and acquisition, restoration, preservation, and management targeted at Metcalf Canyon jewel-flower, most beautiful jewel-flower, fragrant fritillary, smooth lessingia, and Santa Clara Valley dudleya. Therefore, similar to the conclusion presented in the IS/MND and subsequent responses to comments, with the implementation of the applicable VHP conditions, fees and mitigation measures, potential project impacts on sensitive habitats and special-status plant species would be reduced to a less-than-significant level and no further mitigation measures are warranted.