

INSTRUCTIONS FOR FILING AN APPLICATION FOR APPEAL OF AN ENVIRONMENTAL DETERMINATION

WHO MAY APPEAL

Any person may file.

TIME LIMIT

A complete Notice of Environmental Appeal (see back page) must be filed in person at Development Services Center, City Hall, no later than 5 p.m. on the **third business day** following the day of the public hearing that relied upon the Environmental Determination.

APPEAL REQUIREMENTS

1. A complete Notice of Environmental Appeal including the following within the appropriate time limit:
 - a. Application filing fee, (see Filing Fee Schedule).
 - b. The appeal shall state with specificity the reasons that the Environmental Determination should be found not to be complete or not to have been prepared in compliance with the requirements of CEQA.
 - c. No appeal shall be considered unless it is based on issues which were raised at the public hearing either orally or in writing prior to the public hearing. (21.07.040C)

PROCESSING SCHEDULE

Planning Staff:

- Checks the application for completeness.
- Logs and collects fees.
- Sets a public hearing date before City Council and places the item in the agenda.
- Prepares a recommendation to the City Council.

City Council:

- considers and acts upon the appeal in a public hearing.

NOTICE OF ENVIRONMENTAL APPEAL

TO BE COMPLETED BY PLANNING STAFF			
FILE NUMBER		RECEIPT # _____	
TYPE OF ENVIRONMENTAL DETERMINATION (EIR, MND, EX)		AMOUNT _____	
		DATE _____	
		BY _____	
TO BE COMPLETED BY PERSON FILING APPEAL			
PLEASE REFER TO ENVIRONMENTAL APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.			
THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE FOLLOWING ENVIRONMENTAL DETERMINATION:			

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.):			
The Initial Study/Mitigated Negative Declaration is inadequate; please see attachment.			

PERSON FILING APPEAL			
NAME Mark Espinoza		DAYTIME TELEPHONE (408) 624-7660	
ADDRESS P.O. Box 1301	CITY Alviso	STATE CA	ZIP CODE 95002
SIGNATURE		DATE 12/9/2021	
CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)			
NAME			
ADDRESS		CITY	STATE ZIP CODE
DAYTIME TELEPHONE ()		FAX NUMBER ()	E-MAIL ADDRESS

December 10, 2021

Thai-Chau Le
CEQA Planning Supervisor
200 E. Santa Clara Street
San Jose, CA 95113
Thai-Chau.Le@sanjoseca.gov

Re: Appeal of Environmental Determination-1436 State Street Project Initial Study/Mitigated Negative Declaration **FILE NOS: H21-049 (FORMERLY SP18-058) AND ER21-110)**

Dear Ms. Thai-Chau Le:

The community of Alviso is submitting simultaneously the Appeal of Environmental Determination and the Permit Appeal for the 1436 State Street Project Initial Study/Mitigated Negative Declaration (IS/MD). As documented in the IS/MND Technical Appendix A (p. A.1-1) this project proposes:

Note 2. Land uses and sizes are drawn from the site plans for proposed development dated August 7, 2019. Land uses utilized in the emissions model represent the following:

- **Parking > Parking Lot > 23 x Space** = Proposed parking area. Square footage adjusted to match Applicant-provided information dated April 2, 2021.
- **Parking > Other Non-Asphalt Surfaces > 0.61 x 1000 sqft** = Proposed 605 square feet of new sidewalk.
- **Parking > Other Asphalt Surfaces > 4.42 x 1000 sqft** = Balance of project site, paved area for equipment storage.
- **Recreational > Health Club > 0.64 x 1000 sqft** = Proposed 635 square foot employee locker room building.
- **Recreational > City Park > 0.09 x acre** = Proposed 3,872 square feet of landscaping.
- **Industrial > Unrefrigerated Warehouse-No Rail > 3.00 x 1000sqft** = Existing warehouse to be repurposed as contractor warehouse and office. Lot acreage was reduced to zero to remove any grading requirements associated with project construction for this area.
- **Note 3. Construction activities and equipment list were adjusted to match Applicant-provided information dated April 2, 2021.**

This proposed corporation yard/ warehouse project with 5 light duty trucks (10 daily), 9 medium duty trucks (18 daily), 7 heavy duty trucks (14 daily), and 5 personal vehicles (52 daily) trucks will have approximate 94 daily vehicle trips.

This attachment includes all previous submissions pertaining to the Proposed Project. The Final Initial Study/Mitigated Negative Declaration which includes the City of San Jose's Responses to Written Comments were inadequate.

The IS/MND is vague about what activities will be taking place at the site once construction is complete. The IS/MND repeatedly describes the project as "interior improvements of the existing building on the site, repaving and striping the site, rebuilding an existing utility building, a new exterior storage equipment area and the reconfiguration of the gates." This is an

inadequate project description. The IS/MND must be revised and recirculated to thoroughly and accurately explain what activities will occur over the project's life time that might affect air quality, noise, greenhouse gas emissions, and any other environmental impact category. **[For example: The City did not provide an adequate explanation in their response for the project description, see page 2-39 per CEQA §15124]**

The IS/MND appears to evaluate potential health impacts to local residents from exposure to diesel exhaust emissions during project construction, which will be of short duration, but does not do so for emissions during project operation, which will be long-term. Long-term exposure to diesel exhaust can cause serious health problems, especially in children. This is especially true when there are already significant levels of toxic air pollutant emissions in the area, which is the case for Alviso. The IS/MND needs to consider health risks from adding this project's emissions to existing pollution levels. **[For example: The City did not provide substantial evidence and explanation in their response, see page 2-39, for air quality impacts during project operations.]**

The noise assessment simply reports sound measurements taken at the applicant's Fremont facility on 2 days in 2019. There is no indication or explanation to establish that these measurements are in any way representative of what would occur at the Alviso site.

The City should revise the IS/MND to address the deficiencies described above before it can approve this project.

From: Mark Espinoza

Sent: Thursday, September 30, 2021 11:49 AM

To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>

Cc: District4 <District4@sanjoseca.gov>; Shani Kleinhaus <shanibirds@gmail.com>; Eileen McLaughlin

<wildlifestewards@aol.com>

Subject: Re: 1436 State street Alviso

[External Email]

Hi Thai

I'd like this article to be added to the comment period for the 1436 State street project.

I believe the studies have not addressed the cumulative impact associated with this project. There

1



are many other PM sources that are present within a 1000 feet of the project but have yet to be

considered when the analysis generated their reports. Thereby producing a flawed inaccurate report.

<https://pubmed.ncbi.nlm.nih.gov/21555471/>

Chau <Thai-Chau.Le@sanjoseca.gov>

Subject: project proposal @1436 State Street

I'd like to submit the attached photographs to illustrate the current damaged street @  Grand blvd. where I reside. The first photograph is of a nondamaged roadway located @1235 Wabash Street. As evident there is no  damage to the asphalt. Whereas the following photographs located @1592 Grand Blvd we can see the entire section of roadway distressed due to traffic loading. Which means heavy loaded truck traffic.

1

Your applicant wishes to have this damage continue with the added truck traffic in his proposed project. Why has this not been included in the studies provided. I would request for this project to complete an EIR because there are more impacts found that have not been discussed, studies, and or evaluated.

I can already identify disparities given we are a low income community a community of minorities. Thanks

OCA President

From: Marcos Espinoza

Sent: Sunday, October 3, 2021 7:12 PM

To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>

Subject: Proposed project in Alviso

Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

Dear Thai,

My name is Marcos Espinoza and I am a resident of Alviso Ca. I'm am opposed to the proposed project at the site of 1436 State Street Alviso Ca 95002. I oppose this project due to many reasons. The first being the environmental impact this will cause to Alviso residents. Allowing diesel trucks to operate within a small community impacts the health and well being of the community. There are multiple

student bus stops close to this site and this will affect the kids who use the bus service. Also the site will

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operate as an asphalt company. Asphalt produces toxic air which is known to be carcinogenic. To allow an asphalt company to operate literally in front of people's houses is wrong. There are many other businesses that operate on state street that are illegal and any study that may be done does not take into account the overall impact of all of those businesses plus the new proposed project.

Thanks,

Marcos Espinoza

Currently the community of Alviso has at least a dozen construction type of land-uses. This proposed corporation yard/ warehouse project with 5 light duty trucks (10 daily), 9 medium duty trucks (18 daily), 7 heavy duty trucks (14 daily), and 5 personal vehicles (52 daily) trucks will have approximate 94 daily vehicle trips. Although this project incrementally is less than significant with mitigation incorporated, the small community of Alviso is cumulatively and disproportionately burdened with environmental impacts.

Cumulative Air Quality Impacts for Sensitive Receptors and MANDATORY FINDINGS OF SIGNIFICANCE

As you know, the BAAQMD is in the process of updating their CEQA thresholds.

- The BAAQMD thresholds have not been updated since 2010. The 2017 version solely reflects the *California Supreme Court's 2015 opinion in Cal. Bldg. Indus. Ass'n vs. Bay Area Air Quality Mgmt. Dist.*, 62 Cal.4th 369. Per BAAQMD's website: "The Guidelines for implementation of the thresholds are for information purposes only to assist local agencies. Recommendations in the Guidelines are advisory and should be followed by local governments at their own discretion. These Guidelines may inform environmental review for development projects in the Bay Area, but do not commit local governments or the Air District to any specific course of regulatory action."¹² On page 2-39 of the State Street IS/MND

¹ [CEQA Guidelines Update \(baaqmd.gov\)](https://www.baaqmd.gov/CEQA-Guidelines-Update) date accessed December 8, 2021.

² Per (2021) CEQA 15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT

CEQA Comments and Responses: “Furthermore, the BAAQMD was notified of the circulation of the Draft Initial Study and did not provide comments.” The absence of a comment letter from BAAQMD does not provide substantial evidence that this project will not have any significant impacts.

The 1436 State Street Project IS/MND did not adequately disclose that Alviso is designated as SB1000, SB 535 Disadvantaged Community, and AB1550 Low-Income (Figure 1). In addition, Alviso narrowly missed the CalEPA’s top 30% percentile vulnerability rank of cumulative impacts via the CalEnviroScreen 4.0 screening tool (Figure 2).³ The Alviso residents are disproportionately affected by contamination, air pollution, and many cumulative environmental issues: the former South Bay Asbestos Area on the National Priority List (NPL), the Union Pacific Railroad, Highway 237, methane vapor from the Newby Island Landfill and Zanker Recycling Zero Waste Energy, the Calpine Energy Plant, facilities with hazardous wastes, large Google warehouses, the (Approved Development)Microsoft San Jose Data Center, the RWF Cogeneration Project for the San Jose/Santa Clara Water Pollution Control Plant (WPCP), and numerous unpermitted business with diesel trucks, Topgolf Entertainment Center’s traffic impacts, and other proposed projects.⁴

With this evidence, an additional project condition should require a monitoring report that the truck traffic for the State Street Project does not use residential streets and do not exceed their daily vehicle trips. In addition, this project must implement per the California Attorney General’s Bureau of Environmental Justice (Bureau) “*Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act*”.⁵

[The CEQA 2021 Statutes and Guidelines does not preclude the Lead Agency from requiring conditions to the project or additional mitigation measures not included in the BAAQMD CEQA 2017 Air Quality Guidelines. As noted above, the thresholds and guidelines are the same from 2010. For example, the 2017 BAAQMD Guidelines includes URBEMIS and not CalEEMod for analysis and mitigation measures. Yet, the City of San Jose allows for CalEEMod analysis and the mitigation measures in this software.]

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- (a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.
 - (b) (2) Thresholds of significance, as defined in Section 15064.7(a), may assist lead agencies in determining whether a project may cause a significant impact. When using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project's impacts are less than significant. **Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating that the project’s environmental effects may still be significant.**

³ [CalEnviroScreen 4.0 | OEHA](#)

⁴ [RWF Cogeneration Project | City of San Jose \(sanjoseca.gov\)](#) [San Jose City Data Center, Licensing Case - Docket # 2019-SPPE-04](#)

⁵ [Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act](#)

Land-Use

Although the proposed project's zoning is consistent with the Alviso Master Plan and the General Plan, it does not environmentally reflect the significant changes and amendments to the General Plan over many years. Since the adoption of the General Plan in 2011, significant legislative laws have been approved such as SB 1000.⁶ As a City of San Jose resident, I hope City leaders and the Manager's Office of Racial Equity⁷ will soon implement SB 1000.⁸ Ethically, the City has an obligation to consider the disproportionate impacts to the Alviso residents.

⁶ [Envision San José 2040 General Plan | City of San Jose \(sanjoseca.gov\)](#)

⁷ [Racial Equity | City of San Jose \(sanjoseca.gov\)](#)

⁸ Per CA State Attorney General "In 2016, the California Legislature passed Senate Bill (SB) 1000, codified at Government Code section 65302, subdivision (h), to incorporate environmental justice into the local land use planning process. SB 1000 requires local governments to address pollution and other hazards that disproportionately impact low-income communities and communities of color in their jurisdiction. If a local government adopts or updates two or more elements of its general plan after January 1, 2018, SB 1000 requires the local government to identify any "disadvantaged communities" within its planning area. (Gov. Code, § 65302, subds. (h)(1)–(2).) The law defines "disadvantaged communities" to include two identification methods: (1) "an area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the Health and Safety Code"; or (2) "an area that is low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation." (Gov. Code, § 65302, subd. (h)(4)(A).) If a local government identifies one or more disadvantaged communities in its planning area, its general plan must have either an "environmental justice element" or "related goals, policies, and objectives integrated in other elements" (collectively, "EJ policies") that "reduce the unique or compounded health risks in disadvantaged communities" by addressing eight different topics, such as reducing pollution exposure, promoting public improvements, promoting safe and sanitary homes, and promoting public engagement in the local decision making process. (Gov. Code, § 65302, subd. (h)(1).)" [SB 1000 - Environmental Justice in Local Land Use Planning | State of California - Department of Justice - Office of the Attorney General](#)

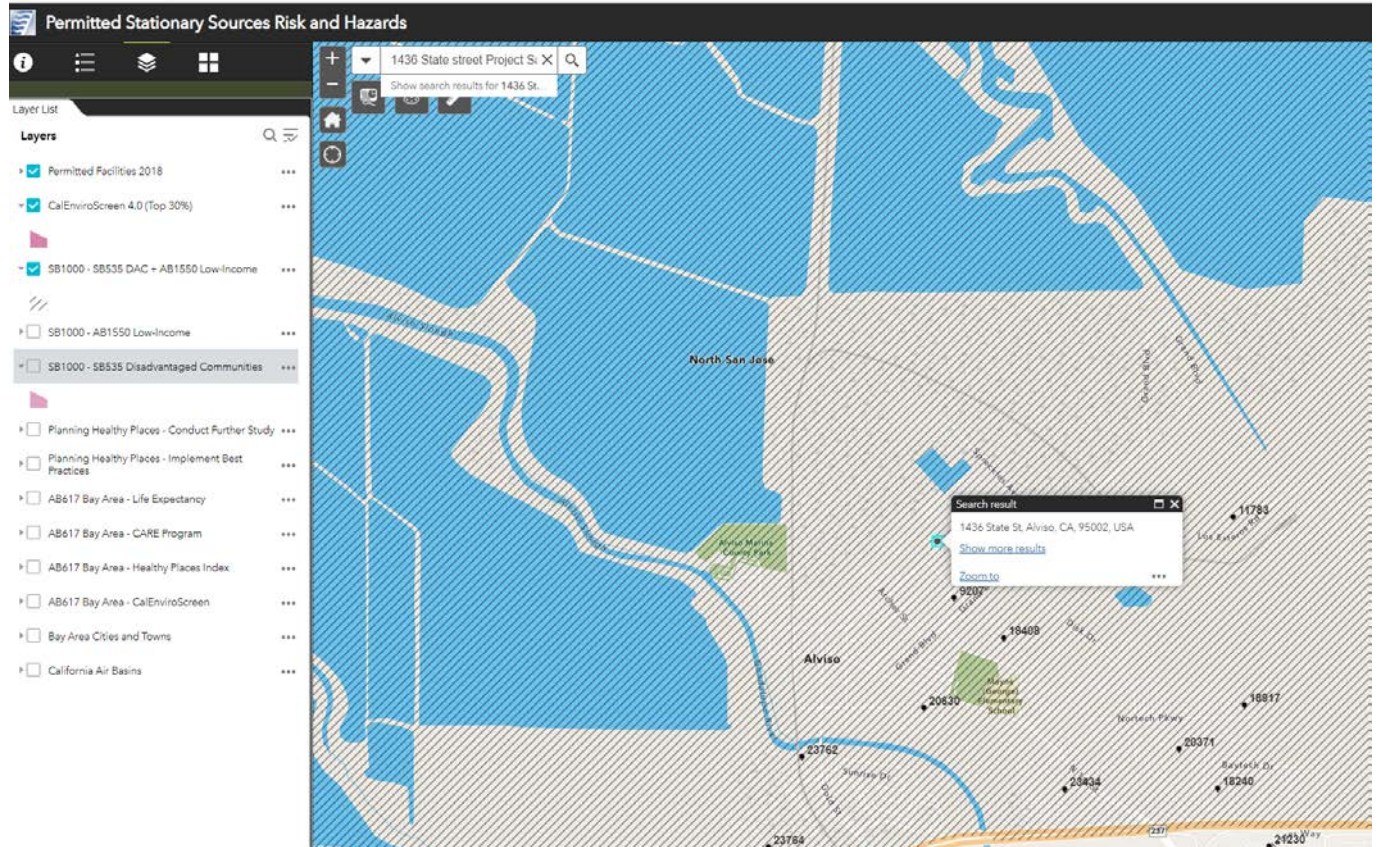
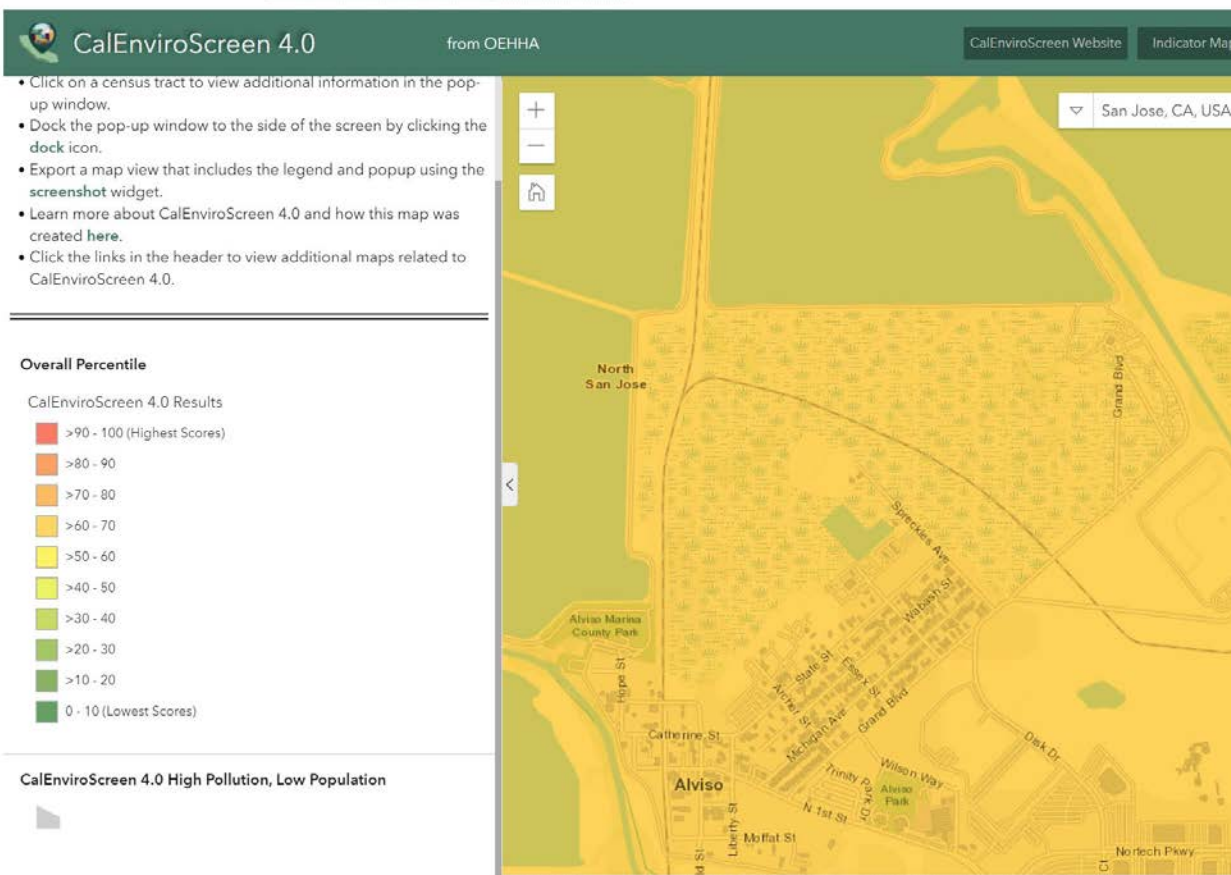


Figure 1: Alviso is designated as SB1000, SB 535 Disadvantaged Community, and AB1550 Low-Income.⁹

⁹ [Permitted Stationary Sources Risk and Hazards \(arcgis.com\)](https://arcgis.com)



The results for each indicator range from 0-100 and represent the percentile ranking of census tract 6085504602 relative to other census tracts.

Overall Percentiles

CalEnviroScreen 4.0
Percentile 67

Pollution Burden
Percentile 82

Population Characteristics
Percentile 50

Exposures

Ozone 15

Particulate Matter 2.5 19

Diesel Particulate Matter 29

Toxic Releases 30

Traffic 94

Pesticides 0

Drinking Water 39

Lead from Housing 51

Environmental Effects	
Cleanup Sites	99
Groundwater Threats	94
Hazardous Waste	93
Impaired Waters	92
Solid Waste	100
Sensitive Populations	
Asthma	38
Low Birth Weight	99
Cardiovascular Disease	40
Socioeconomic Factors	
Education	73
Linguistic Isolation	N/A
Poverty	28
Unemployment	36
Housing Burden	24

Figure 2: Alviso's cumulative pollution burden per CalEPA's screening tool.







INSTRUCTIONS FOR FILING A PERMIT APPEAL APPLICATION

WHO MAY APPEAL

The applicant, or any property owner or tenant of a property within one thousand (1,000) feet of the subject site, may appeal a development permit, development variance, or development exception. The applicant, or such property owner or tenant, must sign the permit appeal form. Alternatively, the signature of the applicant's, property owner's or tenant's lawful power of attorney or attorney-in-fact may be accepted so long as a writing evidencing that person's authority to sign the permit appeal for the applicant, property owner or tenant also is provided with the permit appeal form.

Exceptions:

For a **Tree Removal Permit**, property owners or tenants/occupants of the subject site, or property owners or tenants/occupants of properties immediately adjacent or across the street from the subject site may appeal.

For **Tentative Maps**, the subdivider or any interested party may appeal.

TIME LIMIT

A complete Notice of Permit Appeal (see back page) must be filed on or before **ten calendar days** after a copy of the decision by the Planning Commission or the Director of Planning has been placed in the mail to the applicant.

Exceptions:

For **Tentative Maps**, the appeal must be filed within **ten calendar days of the permit approval**.

APPEAL REQUIREMENTS

1. A complete Notice of Permit Appeal including the following within the appropriate time limit:
 - a. Application filing fee, (see Filing Fee Schedule) (applicable only to 1st filing).
 - b. Assessor's parcel map with subject site outlined.
 - c. **If you are the applicant for the permit being appealed you must also provide the following:**
 1. Public Noticing Fee, then

2. If appealed to:

- City Council, 45 (forty-five) copies of 11" x 17", Z-folded, 3 hold punched, stapled plan sets and/or other supporting documents.
- Planning Commission, 30 (thirty) copies of 11" x 17", Z-folded, stapled plan sets and/or other support documents.

- d. **For Tree Removal Permits.** A Public Noticing Fee will be charged.

PROCESSING SCHEDULE

Planning Staff:

- Checks the application for completeness.
- Logs and collects fees.
- Reviews application with previous files and obtains pertinent data.
- Sets a public hearing date and places the item in the agenda.
- Prepares a recommendation to the appropriate decision making body.

Planning Commission:

- considers and acts upon the appeal of a Planned Development, Special Use, Tree Removal Permits, Use Exceptions/Fence Variance and Variance in a public hearing.
- If the appeal is denied, the decision is final.
- If the appeal is granted, the decision shall be effective immediately.

City Council:

- considers and acts upon the appeal of a Conditional Use Permit, and a Tentative Map in a public hearing.
- If the appeal is denied, the decision is final.
- If the appeal is granted, the decision shall be effective immediately.

Please submit this application IN PERSON to the Development Services Center, 1ST FLOOR, City Hall. Appointments are not required but may be accommodated by calling (408) 535-3555 or by visiting the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=3839> . For Assistance, call (408) 535-5680.

NOTICE OF PERMIT APPEAL

TO BE COMPLETED BY PLANNING STAFF

FILE NUMBER	RECEIPT # _____
PROJECT LOCATION	AMOUNT _____
	DATE _____
	BY _____

TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO PERMIT APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE. THIS FORM MUST BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE PROPERTY WHICH IS LOCATED AT:

1436 State Street Alviso, CA 95002

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.):

Truck traffic, noise, nuisance, street and road damage, impacts to sensitive receptors, construction debris from trucks, hours of operation, conflict with Alviso Master Plan goals and policies, pedestrian safety, Alviso infrastructure not adequate for truck traffic, increase diesel particulate matter

PERSON FILING APPEAL

NAME Manuel Martinez	DAYTIME TELEPHONE (408) 849-7477
ADDRESS 1473 Wabash Street	CITY Alviso
STATE CA	ZIP CODE 95002
SIGNATURE	DATE
RELATIONSHIP TO SUBJECT SITE: (e.g., adjacent property owner, property owner within one thousand (1,000) feet) Within 1,000 feet	

CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)

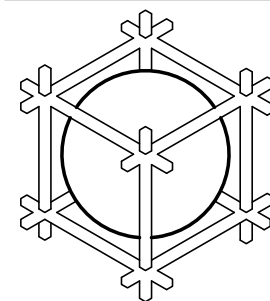
NAME Mark Espinoza			
ADDRESS P.O. Box 1301		CITY Alviso	STATE CA
ZIP CODE 95002			
DAYTIME TELEPHONE (408) 624-7660	FAX NUMBER ()	E-MAIL ADDRESS esp_jkclaw@yahoo.com	

PROPERTY OWNER

NAME	DATE
ADDRESS	CITY
STATE	ZIP CODE

Please submit this application IN PERSON to the Development Services Center, 1ST FLOOR, City Hall. Appointments are not required but may be accommodated by calling (408) 535-3555 or by visiting the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=3839> . For Assistance, call (408) 535-5680.

Site Development Permit Application for: Pacific Surfacing, Inc



wayne renschow
architect

111 W Saint John St. #950
San Jose, CA 95113
(408) 288 8033

consultant

consultant

- general notes
- This sheet is part of a set and is not to be used alone.
 - This sheet is not to be used for construction unless the architect's stamp and signature appear on drawings and status box indicates drawings have been released for construction.
 - These plans and prints thereof, as instruments of service, are owned by the architect and are for use on this project only. Reproduction and/or distribution without the prior written consent of the architect is forbidden.
 - Copyright Wayne Renshaw, Architect 2018

Improvements to an existing site & building

Site Development Permit Application H21-049

1436 State Street
Alviso, CA

#	description	date
1	PLANNING REVISIONS	8/7/19
2	PLANNING REVISIONS	9/10/20
3	PLANNING REVISIONS	2/12/21
4	PLANNING REVISIONS	5/17/21
5	PLANNING REVISIONS	9/1/21
6	PLANNING REVISIONS	1/19/22

revision	status	date
1	client review	
2		
3	plan check	
4	bidding	
5	construction	

date 10/24/18

proj num 1844

proj mgr WR

proj arch WR

scale

cover sheet & site plan

sheet number A1.0

- THESE DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION UNLESS THE ARCHITECT'S STAMP AND SIGNATURE APPEAR ON THE DRAWINGS AND INDICATE THAT THEY HAVE BEEN RELEASED FOR CONSTRUCTION AND APPROVED BY THE LOCAL BUILDING DEPT.
- EACH DRAWING IS PART OF THE SET AND IS NOT TO BE USED ALONE.
- DO NOT SCALE DRAWINGS. ALL DIMENSIONS ARE TO THE FACE OF DIMENSIONS ARE FROM FINISHED FLOOR TO FINISH FACE OF STUD OR CONCRETE UNLESS OTHERWISE NOTED. CEILING HEIGHT CEILING UNLESS OTHERWISE NOTED. VERIFY ALL DIMENSIONS PRIOR TO PROCEEDING WITH WORK. NOTIFY ARCHITECT OF ANY DISCREPANCIES BEFORE PROCEEDING WITH WORK.
- ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE REQUIREMENTS OF LOCAL BUILDING CODES AND ALL APPLICABLE FEDERAL, STATE, COUNTY AND CITY ORDINANCES. NOTHING IN THE ACCOMPANYING DOCUMENTS SHALL BE CONSTRUED TO PERMIT WORK THAT DOES NOT CONFORM TO THESE REGULATIONS.
- CONTRACTOR SHALL INVESTIGATE, VERIFY AND BE RESPONSIBLE FOR ALL CONDITIONS AND DIMENSIONS OF THE PROJECT AND SHALL NOTIFY ARCHITECT REGARDING ANY CONDITION REQUIRING MODIFICATION OR CHANGE BEFORE PROCEEDING WITH THE WORK. SHOULD ANY CONDITIONS DEVELOP NOT COVERED IN THE CONTRACT DOCUMENTS, A CHANGE ORDER SHALL BE SUBMITTED AND APPROVED PRIOR TO THE WORK.
- CONTRACTOR SHALL COORDINATE ANY WORK THAT MAY BE PERFORMED BY OTHER CONTRACTORS AND/OR SUBCONTRACTORS. DISCREPANCIES, IF ANY, SHOULD BE BROUGHT TO THE ATTENTION OF THE ARCHITECT FOR RESOLUTION PRIOR TO PROCEEDING.
- THE CONTRACTOR SHALL CONFINE OPERATIONS AT THE SITE TO AREAS PERMITTED BY LAW, ORDINANCES, PERMITS AND THE CONTRACT DOCUMENTS. THE CONTRACTOR SHALL NOT UNREASONABLY ENCUMBER THE SITE WITH ANY MATERIALS OR EQUIPMENT.
- AT ALL TIMES THE CONTRACTORS SHALL BE SOLELY AND COMPLETELY RESPONSIBLE FOR THE CONDITIONS ON THE JOB SITE, INCLUDING THE SAFETY OF PERSONS AND PROPERTY, AND SHALL SECURE THE AREA TO MINIMIZE NOISE AND DUST DRIFTING INTO ADJACENT AREAS.
- SHOULD THE DRAWINGS, FOR ANY REASON, DISAGREE IN THEMSELVES OR WITH THE SPECIFICATIONS, OR THE SPECIFICATIONS DISAGREE IN THEMSELVES THE BETTER QUALITY AND/OR GREATER QUANTITY OF WORK AND MATERIAL WILL BE ESTIMATED UPON, AND UNLESS OTHERWISE ORDERED IN WRITING, SHALL BE FURNISHED AND INSTALLED.
- NO STRUCTURAL MEMBER SHALL BE NOTCHED, BORED OR OTHERWISE MODIFIED WITHOUT PERMISSION FROM THE ENGINEER. PATCH AND REPAIR AREAS DAMAGED DURING CONSTRUCTION TO MATCH ADJACENT MATERIAL, COLOR AND FINISH.
- GENERAL CONTRACTOR IS TO PROVIDE PORTABLE FIRE EXTINGUISHER(S) AS SHOWN ON THE FLOOR PLAN, AND/OR AS REQUIRED BY THE FIRE MARSHAL. FIRE EXTINGUISHERS MUST BE PLACED WITHIN 75 FEET OF TRAVEL FROM ALL AREAS IN BUILDING. VERIFY NUMBER AND PLACEMENT OF FIRE EXTINGUISHERS WITH THE FIRE MARSHAL.
- PLUMBING FIXTURES ARE SHOWN IN GENERIC FORM ONLY. REFER TO PLUMBING DRAWINGS FOR SPECIFIC INFORMATION.
- THE CONTRACTOR, IN THE WORK OF ALL TRADE DISCIPLINES, WILL PERFORM ANY AND ALL CUTTING, PATCHING, REPAIRING, RESTORING AND THE LIKE AS NECESSARY TO COMPLETE THE WORK AND RESTORE DAMAGED OR AFFECTED SURFACES RESULTING FROM THE WORK OF THIS CONTRACT TO THEIR ORIGINAL CONDITIONS TO THE SATISFACTION OF THE ARCHITECT AND OWNER.
- IF ANY ERRORS OR OMISSIONS APPEAR IN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL NOTIFY THE ARCHITECT IMMEDIATELY VIA TELEPHONE CALL AND IN WRITING OF SUCH ERROR OR OMISSION BEFORE PROCEEDING WITH THE WORK. ALL LEGAL EXITS SHALL BE OPENABLE FROM THE INSIDE WITHOUT THE USE OF A KEY, SPECIAL KNOWLEDGE OR EFFORT, PER CHAPTER 10 OR THE CBC.

general notes

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PROJECT SUMMARY:
THIS PROJECT PROPOSES IMPROVEMENTS TO AN EXISTING SITE & BUILDING.

EXISTING USE: INDUSTRIAL WAREHOUSE- STORAGE RECYCLING SITE
PROPOSED USE: CONSTRUCTION/CORPORATION YARD (PAVING COMPANY) INDOOR AND OUTDOOR STORAGE OF TOOLS AND MATERIALS. INTERIOR STORAGE OF TOOLS AND MATERIALS ALONG WITH ADMINISTRATIVE OFFICES.
EXISTING BUILDING: THE EXISTING STEEL BUILDING WAS CONSTRUCTED WITHOUT THE BENEFIT OF A BUILDING PERMIT. THIS PERMIT WILL ESTABLISH THE PLANNING APPROVAL FOR THE EXISTING BUILDING. BUILDING PERMITS WILL FOLLOW.

SCOPE OF WORK:

- IMPROVEMENTS TO AN EXISTING BUILDING (INTERIOR).
- EXTERIOR: NEW LANDSCAPE, RE-PAVING EXISTING SITE, STRIPPING PARKING, NEW EXTERIOR STORAGE EQUIPMENT, RE-CONFIGURE EXISTING FENCING AND GATES.
- CONSTRUCT A NEW EMPLOYEE LOCKER/CHANGING ROOM WITH ATTACHED TOOL STORAGE ROOM, TRASH ENCLOSURE AND HOUSEKEEPING PADS FOR A PROPANE TANK, AN ASPHALT SEALANT TANK, AND A HOUSEKEEPING PAD FOR GENERAL CONSTRUCTION MATERIALS. (RE-BAR, LUMBER, CONCRETE BLOCK, ETC)

GROSS PROPERTY AREA: 42,240 SF +/-
BUILDING INFORMATION:
APN: 015-11-085
ZONING: "L" LIGHT INDUSTRIAL
PROPOSED USE: CONSTRUCTION/CORPORATION YARD
EXISTING BUILDING AREA: 3,100 SF NO CHANGES ARE PROPOSED

UTILITY BUILDING TO BE RE-BUILT: EXISTING AREA = 84 SF
NEW PROPOSED AREA = 635 SF
TYPE OF CONSTRUCTION: V-B
NUMBER OF STORIES: 1 STORY
HEIGHT: EXISTING BUILDING: ONE STORY, ±19'-0"
NEW STORAGE/CHANGE ROOM BUILDING: ±12'-0"
ALLOWED: 50 FT MAX.

SETBACKS:
FRONT: 15 FT REQ'D FOR BUILDING & 20 FT REQ'D FOR PARKING.
PROPOSED). EXISTING BUILDING 30'-6" (NO CHANGES ARE SIDE & REAR: 0 FT (FOR NON-RESIDENTIAL).

LANDSCAPE: REQUIRED AT ALL SETBACKS.
EXISTING LANDSCAPE COVERAGE: LESS THAN 1%
PROPOSED LANDSCAPE: COVERAGE: 10% NEW FRONT SETBACK, SIDE & REAR. SEE PLAN.

BUILDING FIRE PROTECTION EXTERIOR WALLS NOT REQUIRED:

FIRE-RESISTANCE RATING NOT REQUIRED PER TABLE 601 FOR BUILDINGS WITH TYPE V-B CONSTRUCTION.

FIRE PROTECTION OF EXTERIOR WALLS IS NOT REQUIRED FOR TYPE V-B CONSTRUCTION AND S-1 OCCUPANCY WHEN DISTANCE 10' X <30' FROM THE PROPERTY LINE

MAXIMUM AREA OF EXTERIOR WALL OPENINGS ALLOWED FOR : FOR UNPROTECTED-NONSPRINKLERED BUILDING LOCATED BETWEEN 15 FEET AND 20 FEET: 25% ALLOWED OPENINGS.

EXISTING AND OCCUPANCY ANALYSIS. SEE FLOOR PLAN, SHEET A2.1

OCCUPANCY:
EXISTING: "S1" / "B": INDUSTRIAL WAREHOUSE / OFFICE - NO CHANGE IN OCCUPANCY
PROPOSED: "S1" / "B": INDUSTRIAL WAREHOUSE / OFFICE - NO CHANGE IN OCCUPANCY.

UTILITY BUILDING : "U" UTILITY (SITE TOILET AND CHANGING ROOM)

ALLOWABLE BUILDING AREAS FOR "S-1" & "B" OCCUPANCIES (1 STORY) TYPE V-B NON SPRINKLER BUILDING:

TOTAL ALLOWABLE AREAS FOR "S-1" & "B" OCCUPANCIES: 9,000 SF
EXISTING BUILDING AREA: AREAS: 3,100 SF
(AREA INCREASES ARE NOT PROPOSED)

ALLOWABLE BUILDING AREAS FOR "U" OCCUPANCY (1 STORY) TYPE V-B NON SPRINKLER BUILDING:

TOTAL ALLOWABLE AREAS FOR "U" OCCUPANCY: 5,500 SF
PROPOSED UTILITY BUILDING AREA: (TOILET & CHANGING RM) 635 SF

OCCUPANCY SEPARATION:

EXISTING BUILDING: OCCUPANCY SEPARATION IS NOT REQUIRED BETWEEN AN "S-1" & "B" OCCUPANCY

FIRE SPRINKLERS: NON-SPRINKLER

THE EXISTING BUILDING DOES NOT HAVE AN AUTOMATIC SPRINKLER SYSTEM. AN AUTOMATIC SPRINKLER SYSTEM IS NOT PROPOSED.

ACCESSIBILITY:

THIS PROJECT PROPOSES NEW PATH OF TRAVEL TO THE STREET, NEW ACCESSIBLE STALLS, AND INTERIOR FUTURE IMPROVEMENTS.

APPLICABLE BUILDING CODES:

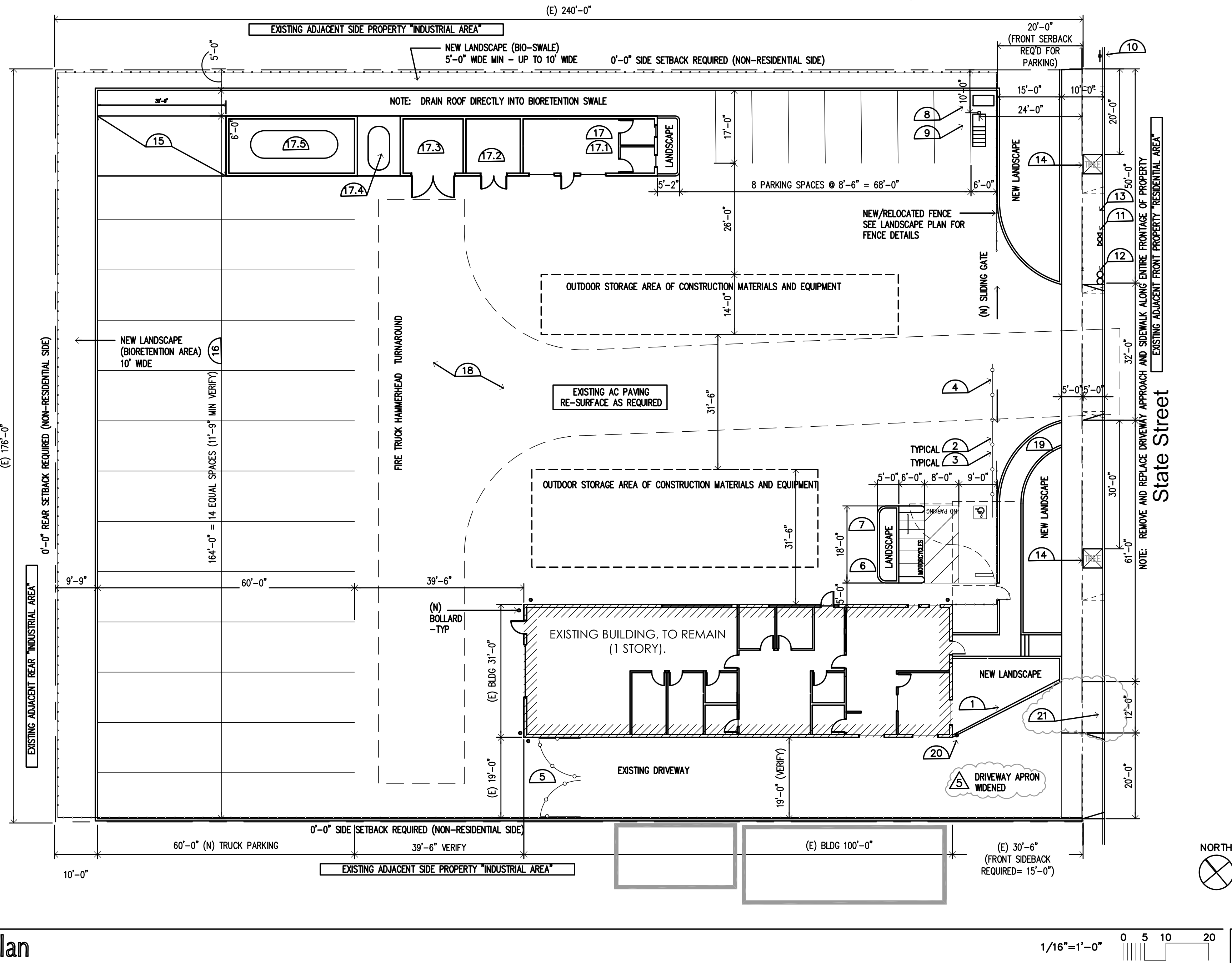
2016 CALIFORNIA BUILDING, FIRE, MECHANICAL, ELECTRICAL, PLUMBING, GREEN BUILDING STANDARDS, ENERGY CODE

SIGNS: NEW BUILDING SIGNAGE WILL BE HANDLED AS A SEPARATE SIGN PERMIT APPLICATION.

OFF-STREET PARKING REQUIREMENTS:

REQUIRED PARKING FOR INDUSTRIAL SERVICES: 1 STALL PER 350 SQ. FT. OF NET FLOOR AREA
NET FLOOR AREA = 85% OF GROSS FLOOR AREA
GROSS FLOOR AREA = 3100 SF + 635 SF = 3735 SF. 3735 * 85% = 3175 SF
3175 SF / 350 SF = 9 PARKING SPACES.

PROVIDED PARKING: 8 STALLS + 1 ACCESSIBLE = 9 TOTAL
NOTE: ADDITIONAL COMPANY TRUCK STALLS ARE PROVIDED.



site plan

- SEE CIVIL DRAWINGS FOR INLETS TO STORM WATER TREATMENT AREA
- REMOVE EXISTING FENCE.
- NEW FENCE ALONG PROPERTY LINE. SEE DETAIL 14/L1.0
- NEW SLIDING GATE.
- NEW SWIMMING GATE.
- NEW MOTORCYCLE PARKING: 3 SPACES AT 3'x6' EACH
- NEW BICYCLE RACK: 3 SPACES AT 2'x6 FEET EACH.
- ONE NEW LONG TERM BICYCLE LOCKER.
- NEW POWER POLE WITH SERVICE METER, DISCONNECT AND ACCESS STEPS.

- EXISTING UTILITY POLE, TO REMAIN. (POLE IS IN FRONT OF ADJACENT PROPERTY)
- EXISTING FIRE HYDRANT, TO REMAIN.
- EXISTING WATER METER/VALVES: PROVIDE NEW CHRISTY BOX AROUND VALVE AND ADJUST HEIGHT TO MATCH LEVEL OF NEW SIDEWALK. PROVIDE BACK-FLOW VALVE ON WATER LINE.
- REMOVE EXISTING SIDEWALK, CURB AND GUTTER ALONG ENTIRE PROJECT FRONTAGE AND REPLACE WITH NEW SIDEWALK, CURB AND GUTTER. SEE CITY OF SAN JOSE STANDARD DETAILS FOR REPLACEMENT.

- NEW TREE WELL FOR STREET TREE
- 14.1. SEE SHEET L1.0 FOR STREET TREE PLANTING DETAILS. VERIFY LOCATION OF STREET TREE AND TYPE OF TREE WITH CITY PRIOR TO POURING CONCRETE.
- 14.2. BASED ON THE CITY OF SAN JOSE'S STREET TREE PLANTING SET BACKS AND OFFSET REQUIREMENTS (FOUND IN DETAIL 16/L1.0) ONLY ONE STREET TREE CAN BE PLANTED ON EACH SIDE OF THE MAIN DRIVEWAY ENTRANCE.
- 14.3. 4'-6"x4'-6" OPENING, STARTING AT THE BACK OF THE CURB.

- NEW CONCRETE HOUSEKEEPING PAD, USED TO STORE CONSTRUCTION MATERIALS LIKE REINFORCING STEEL OFF OF THE GROUND.
16. PARKING SPACES FOR CONSTRUCTION VEHICLES, TRAILERS, AND EQUIPMENT.

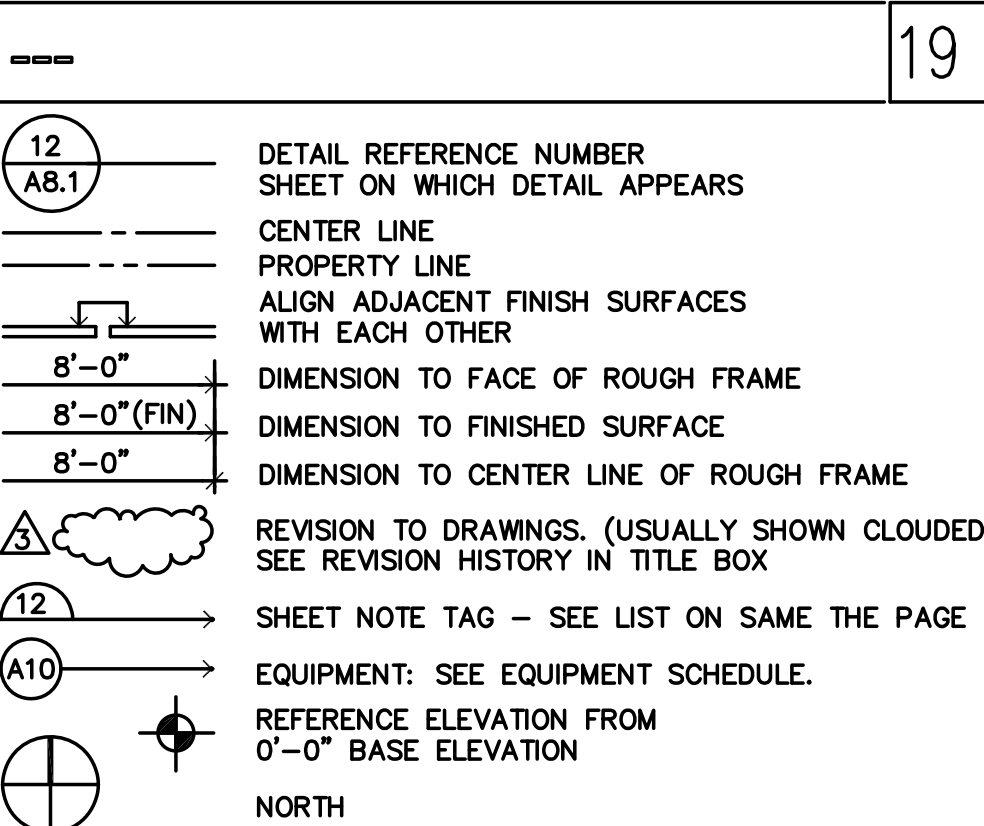
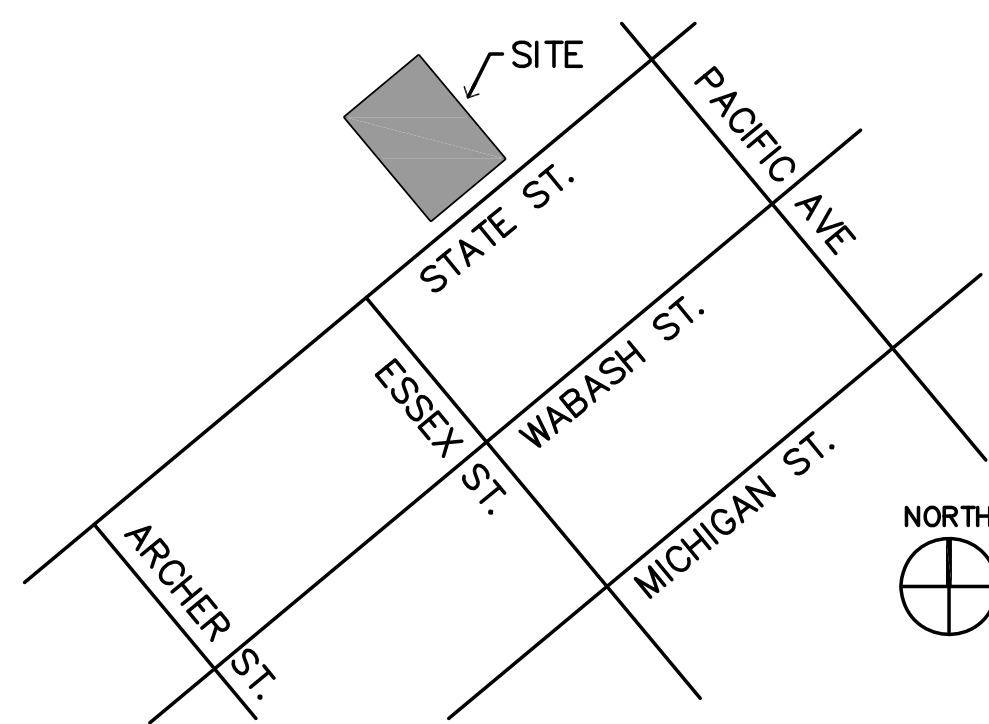
17. NEW UTILITY BUILDING.
17.1. STAFF CHANGING ROOM AND TOILET ROOMS
17.2. TOOL STORAGE ROOM
17.3. COVERED TRASH ENCLOSURE WITH INTERIOR DRAIN TO THE SANITARY SEWER
17.4. 500 GALLON PROPANE TANK
17.5. ASPHALT SEALANT TANK WITH SECONDARY CONTAINMENT WALLS AROUND. NOTE: TANK WILL BE PROVIDED WITH SPILL COLLECTION FUNNEL, OVER-FILL ALARM, AND OTHER SAFETY FEATURES AS MANDATED BY THE FIRE CODE. EXISTING TRAILER ON ADJACENT PROPERTY. (NOT ON A PERMANENT FOOTING)
18. HAMMER-HEAD TURN AROUND FOR EMERGENCY VEHICLES AND CONSTRUCTION EQUIPMENT: 20 FEET, MINIMUM. 30 FOOT INSIDE TURNING RADIUS, 50 FEET OUTSIDE TURNING RADIUS.
19. NEW WALKWAY/RAMP DOWN TO PUBLIC SIDEWALK.
20. NEW STEEL BOLLARD: 36" TALL, 6" DIAMETER STEEL PIPE FILLED WITH CONCRETE AND SET IN AN 18" DIAMETER, 24" DEEP CONCRETE FOOTING. SET APPROXIMATELY 5 FEET FROM THE FACE OF THE BUILDING.
21. PROVIDE A SECTION OF ROLLED CURB AND GUTTER ADJACENT TO THE DRIVEWAY APPROACH.

- A1.0 COVER SHEET & SITE PLAN
- A1.1 STORM WATER CONTROL NOTES
- A2.1 FLOOR PLAN
- A3.1 BUILDING ELEVATIONS

- L1.0 LANDSCAPE PLAN.

- C1 GRADING AND STORMWATER CONTROL PLAN
- C2 STORMWATER CALCULATIONS
- C3 CIVIL DETAILS AND NOTES
- C4 PRELIMINARY UTILITY PLANS

- C5 BLUEPRINT FOR A CLEAN BAY



general legend

20

project summary

16

sheet index

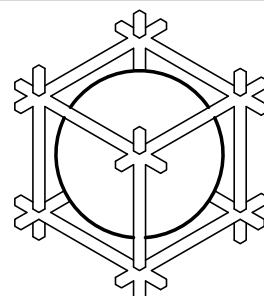
12

sheet index

8

vicinity map

4



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




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	PLANNING REVISIONS	1/19/22

release status	date
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<input type="radio"/>	
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<input type="radio"/> plan check	
<input type="radio"/> bidding	
<input type="radio"/> construction	

date 10/24/18

proj num 1844

proj mgr WR

proj arch WR

scale

storm water control notes

sheet number A1.1

SITE DESIGN MEASURES INCORPORATED IN THIS PROJECT

1. THE EXISTING SITE IS 100% PAVED WITH NO PERVIOUS SURFACES; THERE ARE NO EXISTING TREES TO BE PROTECTED.

2. MINOR GRADING OF THE EXISTING SITE WILL BE COMPLETED TO DIRECT RUN-OFF INTO THE PROPOSED BIO-RETENTION AREAS.

3. THIS PROJECT PROPOSES TO ADD NEW LANDSCAPE AREAS AND NEW BIO-RETENTION AREAS, WHICH WILL REDUCE THE IMPERVIOUS SURFACES ON THE SITE.

4. NEW PERVIOUS AREA, INCLUDING LANDSCAPING AND BIO-SWALES ARE BEING INTRODUCED IN THIS DESIGN.

5. LANDSCAPING

5.1. LANDSCAPING IS PROVIDED AROUND THE NEW PARKING AREAS.

5.2. NEW WALKWAYS ARE PROVIDED, ONLY AS NECESSARY

5.3. EMERGENCY VEHICLE ACCESS IS PROVIDED ON THIS SITE.

5.4. THIS PROJECT DOES NOT PROPOSE PRIVATE STREETS. AN EXPANDED PUBLIC SIDEWALK IS PROVIDED ALONG THE PROJECT FRONTAGE.
6. RUN-OFF FROM HE BUILDING ROOFS WILL BE DIRECTED INTO THE NEW BIO-RETENTION AREAS.

7. NEW TREES ARE PROPOSED. PLEASE REFER TO THE LANDSCAPE PLAN.

8. NEW TREES ARE PROPOSED AROUND THE PARKING AREAS. PLEASE REFER TO THE LANDSCAPE PLAN

9. NEW PARKING IS PROVIDED ON-SITE, AND IS NOT PROVIDED IN EXCESS OF WHAT IS REQUIRED BY THE ZONING CODE.

SOURCE CONTROL MEASURES

1. SOURCES THAT WILL BE CONNECTED TO THE SANITARY SEWER.

1.1. TRASH ENCLOSURE

1.2. WASH RACKS ARE NOT PROPOSED.

2. INDUSTRIAL OUTDOOR MATERIAL STORAGE AREAS.

2.1. MATERIALS WILL BE STORED ON EITHER A CONCRETE HOUSKEEPING PAD OR AN AREA THAT IS PAVED WITH ASPHALT.

2.2. PAVED AREAS WILL BE GRADED TO AVOID PONDING OF WATER.

3. LANDSCAPE PLANTING HAS BEEN SELECTED TO BE COMPATIBLE WITH BIO-RETENTION AREAS AS WELL AS THE DEMANDS OF A MEDITERRANEAN CLIMATE.

4. A DRIP IRRIGATION WILL BE INSTALLED TO PROVIDE IRRIGATION TO PLANTINGS.

5. THE PROPERTY OWNER WILL OCCUPY THE PROPERTY AND WILL MAINTAIN ALL AREAS APPROPRIATELY

6. ALL STOMA DRAIN INLETS WILL BE LABELED "NO DUMPING – FLOWS TO THE BAY"

OPERATIONS AND MAINTENANCE INFORMATION.

1. PROPERTY ADDRESS 1436 STATE STREET, ALVISO, CA

2. PROPERTY OCCUPANT AND OWNER: PACIFIC SURFACING, INC.

3. PARTY RESPONSIBLE FOR MAINTENANCE:

3.1. PACIFIC SURFACING, INC

3.2. CONTACT: SETH MARTINEZ

3.3. ADDRESS: 1436 STATE STREET, ALVISO, CA 95002

3.4. PHONE: 408 639 0076.

3.5. EMAIL: SETH@PACIFICSURFACING.COM

site design & control source notes

1. STORM WATER THAT OVERFLOWS THE PROPOSED BIO-RETENTION AREAS WOULD FLOW INTO THE EXISTING STORM WATER SYSTEM AT STATE STREET AND THEN FLOW INTO THE BAY.

2. POLLUTANT SOURCES ON SITE.

2.1. THIS PROJECT PROPOSES A CONSTRUCTION CORPORATION YARD FOR THE PARKING OF CONSTRUCTION VEHICLES AND OUTDOOR STORAGE OF CONSTRUCTION MATERIALS. POTENTIAL SOURCES OF POLLUTANTS ARE FROM MATERIALS THAT ARE ATTACHED TO THE TIRES AND THE VEHICLES THEMSELVES. (VEHICLE MAINTENANCE IS HANDLED OFF-SITE.) MINOR DRIPPING OF PAVEMENT SEALANT ONTO ADJACENT PAVEMENT AREAS MAY ALSO OCCUR.

2.2. STANDARD POLLUTANTS FROM VEHICLE PARKING.

2.3. DUST MAY OCCUR FROM THE HANDLING OF CONSTRUCTION MATERIALS.

3. THIS PROPERTY HAS BEEN USED AS A RECYCLING YARD FOR MANY YEARS, AND HAS BEEN ESSENTIALLY 100% PAVED OVER. THERE ARE NO EXISTING HYDROLOGIC FEATURES FOUND ON SITE, AND NO SIGNIFICANT NATURAL RESOURCES.

4. PLEASE REFER TO THE ATTACHED SOILS REPORT INFORMATION ON THE SITE'S SOIL TYPES.

5. GROUND WATER WAS NOT ENCOUNTERED DURING OUR EXPLORATIONS DOWN TO 10 FEET BELOW THE SURFACE, HOWEVER IT SHOULD BE NOTED THAT IT HAS BEEN DRY FOR MONTHS. GROUND WATER IN THIS AREA IS TYPICALLY FOUND MUCH HIGHER THAN 10'

6. THIS PROPERTY IS LOCATED IN A FLOOD ZONE.

7. TREES: THERE ARE CURRENTLY NO TREES PLANTED ON THE SITE. PLEASE REFER TO THE LANDSCAPE PLAN FOR PROPOSED TREE PLANTING.

8. THE EXISTING SITE IS LEVEL TO THE EYE. THIS PROJECT PROPOSES TO DRAIN THE SITE WITH A BASIC SHEET FLOW ACROSS THE ASPHALT PAVING TOWARDS THE BIO-RETENTION AREAS TO ALLOW FOR INFILTRATION.

9. AN OVERLAND RELEASE IS PROVIDED AT THE MAIN DRIVEWAY ENTRANCE.

10. WATER TREATMENT.

10.1. THIS PROJECT PROPOSES BIO RETENTION/INFILTRATION TRENCHES AT THE BACK AND EAST SIDE OF THE PROPERTY. PLEASE REFER TO ATTACHED ENGINEERING CALCULATIONS FOR SIZING OF PROPOSED INFILTRATION TRENCHES.

11. MAINTENANCE SCHEDULE: THE TENANT AND PROPERTY OWNER ARE THE SAME – OWNER WILL MAINTAIN THE PROPERTY

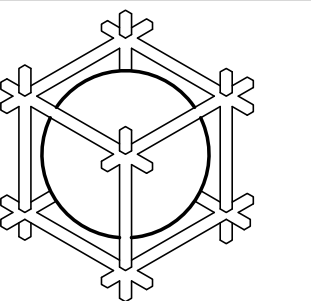
11.1. DAILY CLEAN-UP OF DEBRIS AND LITTER FROM SITE.

11.2. SPILLS OF SEALANTS AND OTHER FLUIDS SHALL BE CLEANED UP IMMEDIATELY.

11.3. WEEKLY CLEANING OF INFILTRATION TRENCHES.

11.4. GARDENER WILL MAINTAIN PLANTING ON A WEEKLY BASIS. PLANTS IN POOR HEALTH WILL BE REMOVED AND REPLANTED

12. PLEASE REFER TO LANDSCAPE PLAN FOR PLANTING.
- ### general notes



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6	PLANNING REVISIONS	1/19/22

revision	history	date
1	client review	
2	plan check	
3	bidding	
4	construction	

date 10/24/18

proj num 1844

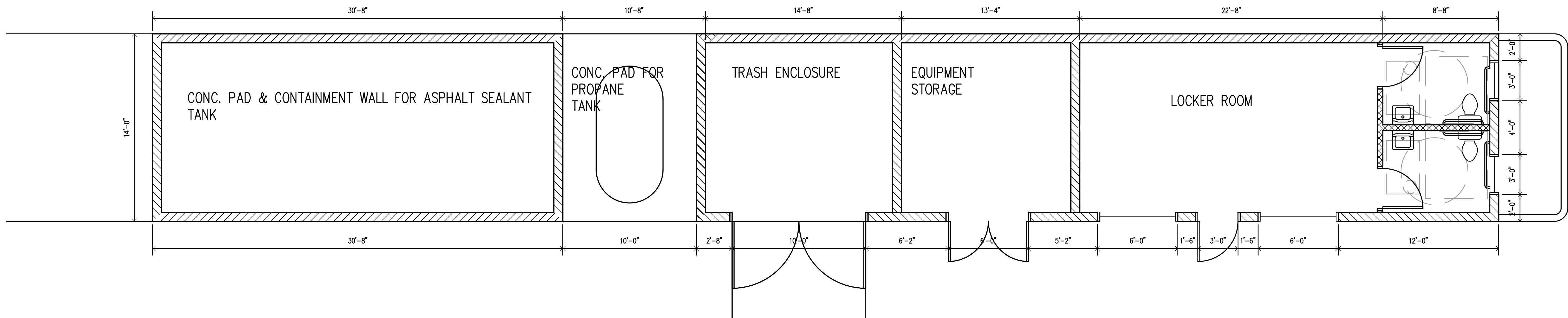
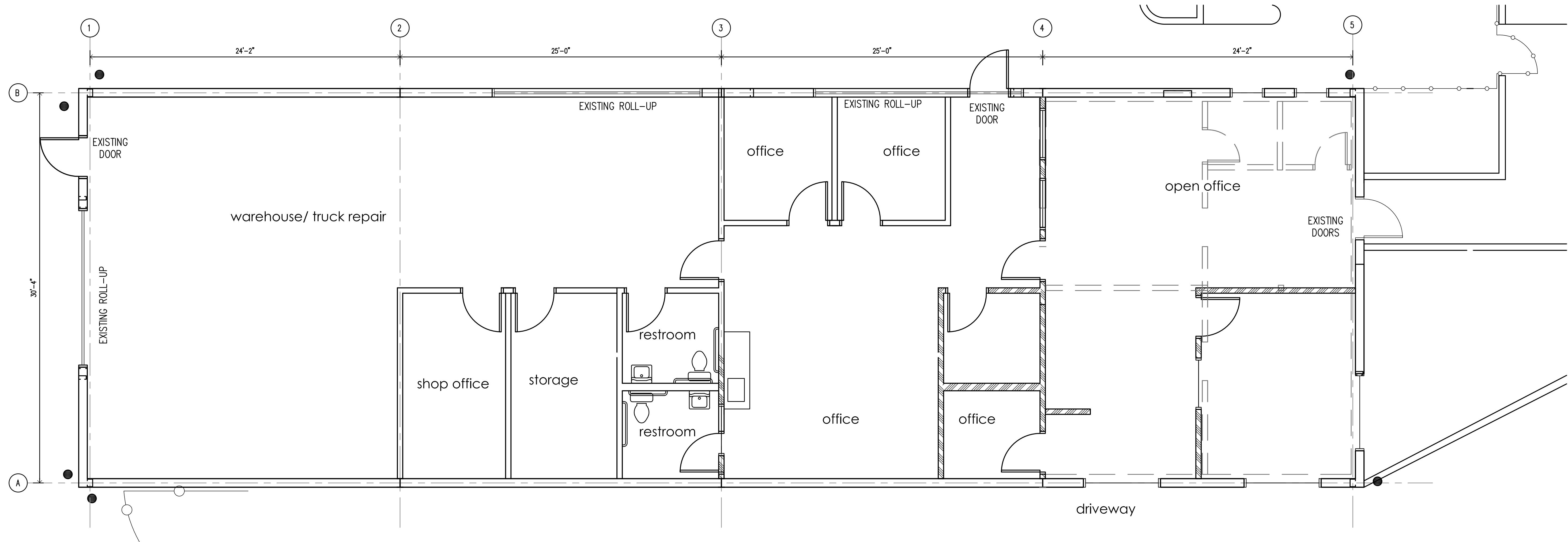
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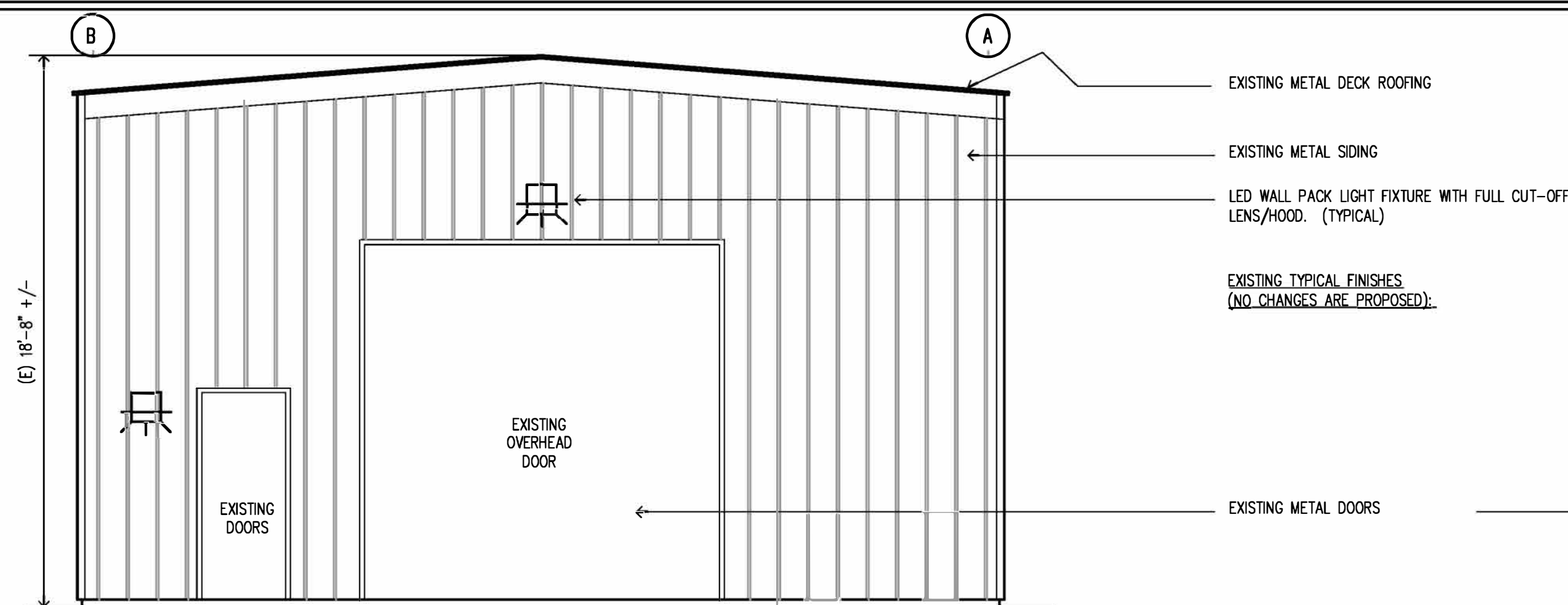
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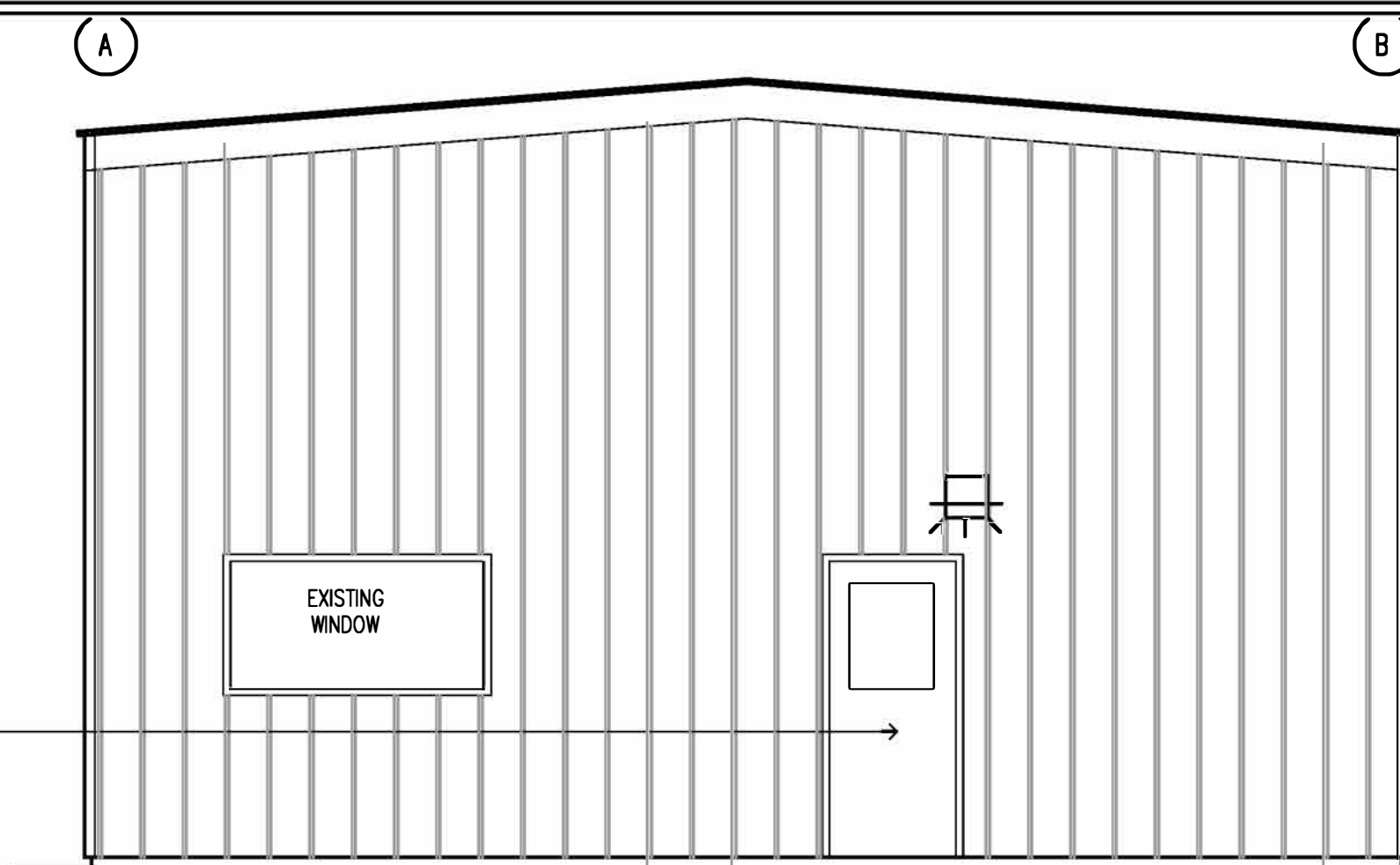
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plans

sheet
number
A2.1

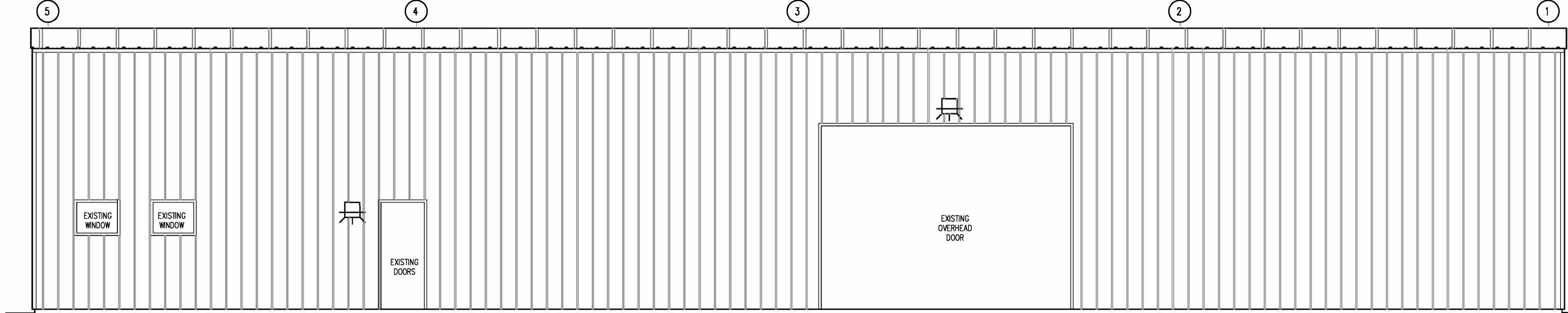




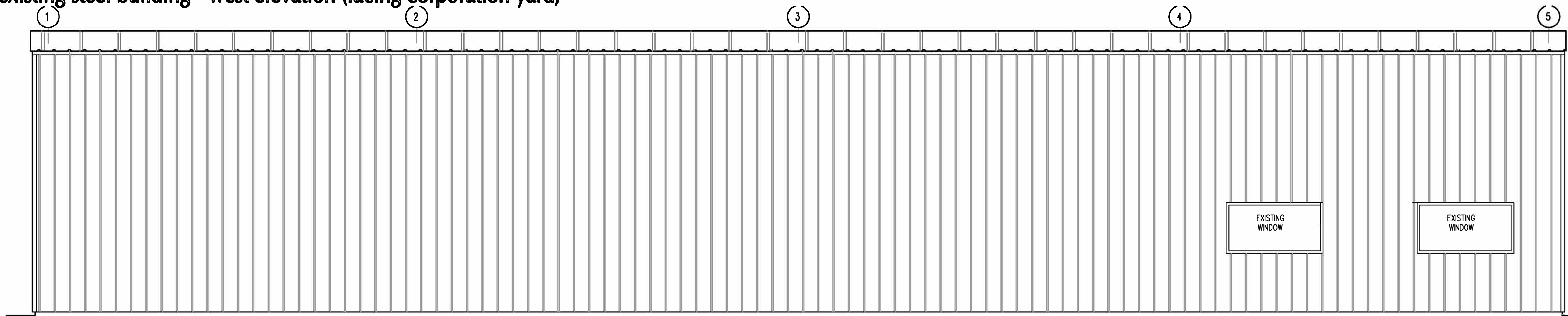
existing steel building - north elevation (facing back of property)



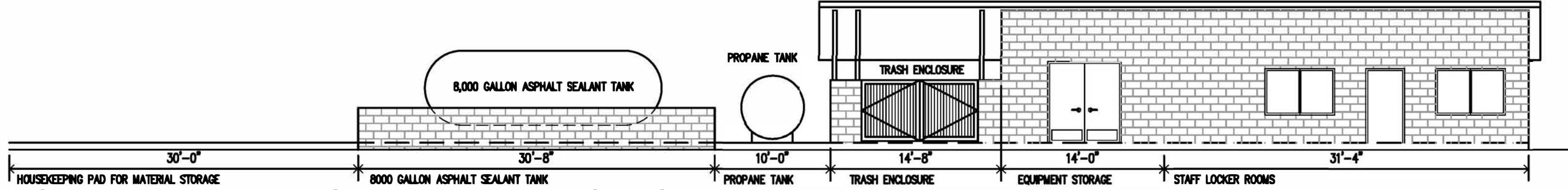
existing steel building - south elevation (facing state street)



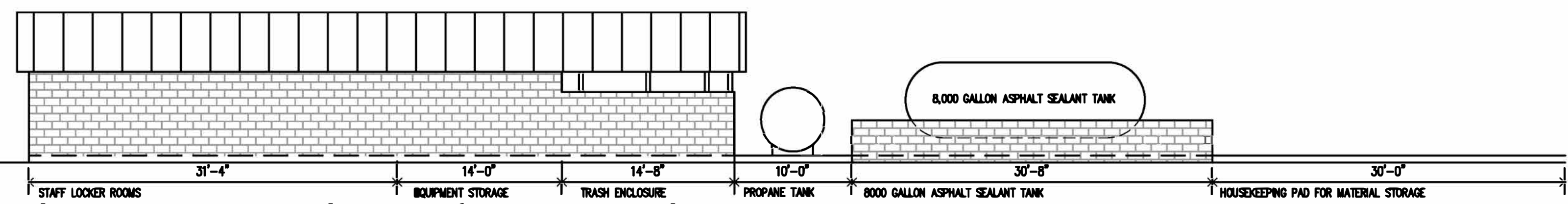
existing steel building - west elevation (facing corporation yard)



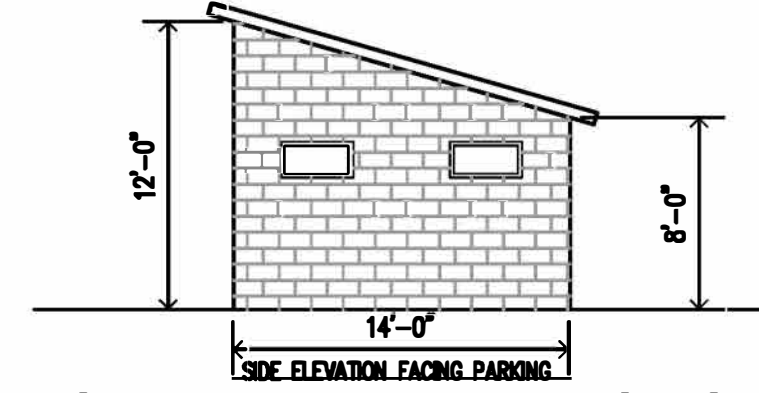
existing steel building - east elevation (facing driveway)



utility structures - west elevation, facing parking lot



utility structures - east elevation, facing property line



utility structures - south elevation facing state street

- NOTES:
1. THIS BUILDING IS LOCATED WITHIN THE FLOOD PLANE AN WILL THEREFORE BE "FLOOD PROTECTED".
 - 1.1. WALL CONSTRUCTION: CONCRETE BLOCK WITH AN EPOXY PAINT/SEALANT ON EXTERIOR SIDE. ALL CONSTRUCTION JOINTS TO BE SEALED AND WATER TIGHT TO 12" MINIMUM ABOVE THE FLOOD PLANE.
 - 1.2. WATER TIGHT DOORS WITH AUTOMATIC CLOSERS AND SEALS WILL BE PROVIDED. WINDOWS WILL BE PROVIDED WITH FLOOD SHUTTERS AND SEALS.
 - 1.3. A FLOODPROOFING CERTIFICATE (FEMA FORM 088-0-34) AND OTHER APPROPRIATE DOCUMENTS WILL BE PROVIDED AS APPROPRIATE.



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<input type="radio"/>	bidding	
<input type="radio"/>	construction	

date	10/24/18
proj num	1844
proj mgr	WR
proj arch	WR

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building
elevations

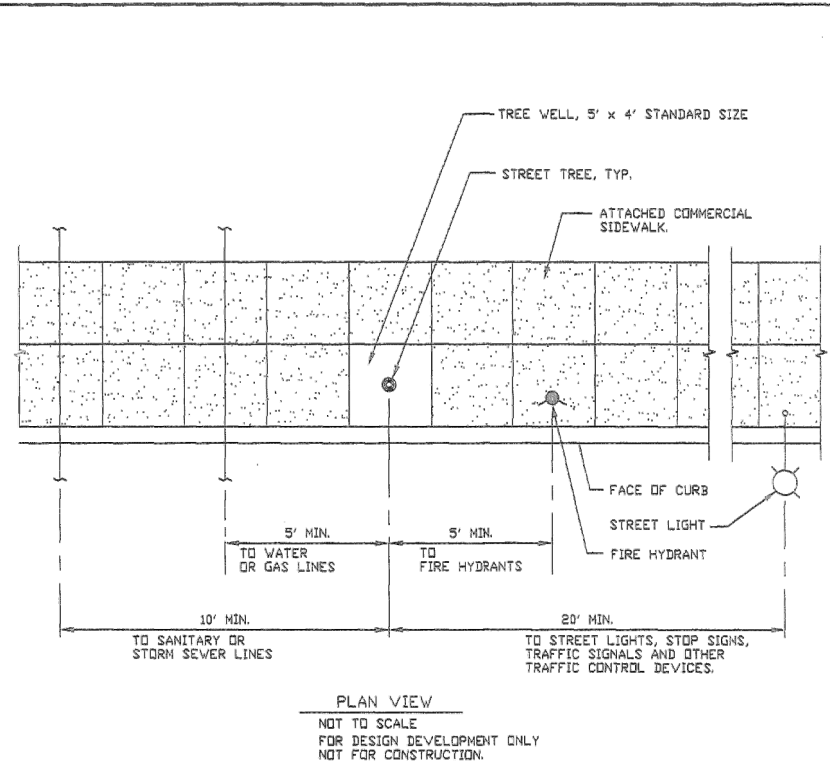
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City of San Jose
Street Tree Planting
Set Backs and Offsets



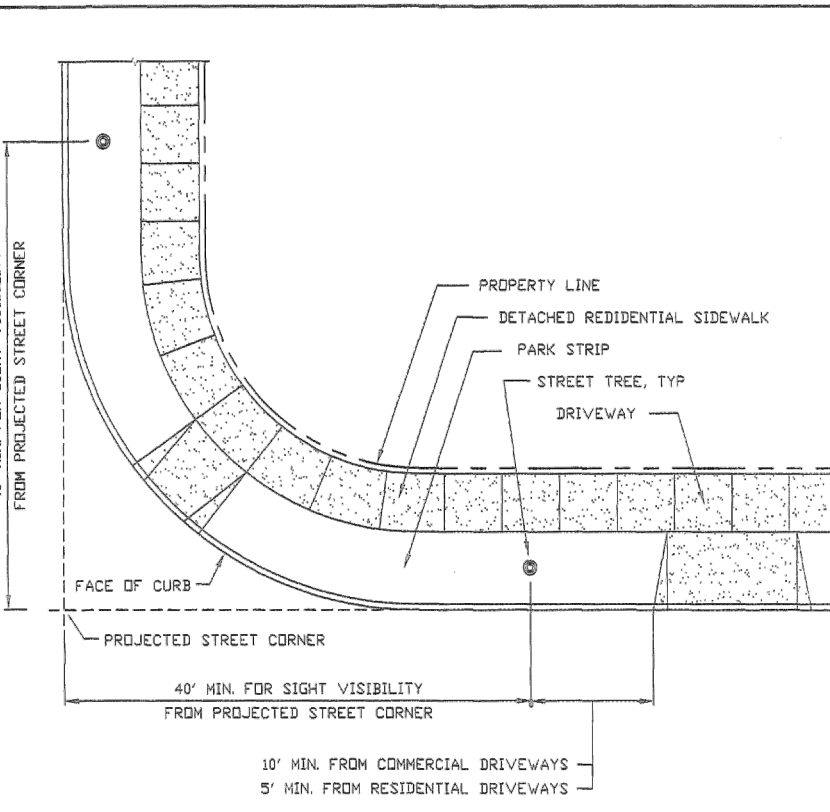
Street Lights	20 Feet	To prevent blocking light & dark streets
Underground utilities	5 Feet	If they dig up utility, they do heavy damage to tree roots if tree is too close
Driveways	Residential 5 Feet Commercial 10 Feet	Trucks in & out of drive damage trees; trees also can block sight lines of vehicles backing out.
Sewer Lines	10 Feet	Roto Rooter loves roots that clog sewers
Water Meter	5 Feet	Trees break lines at meter
Stop signs and other traffic devices	20 Feet	Major Danger here: Vehicle collision/pedestrian collisions
Fire Hydrants	5 Feet	If trees are too close = block access for fire hoses
Corners	40 Feet	To allow for line of sight to on-coming traffic and pedestrians

Appendix F—Street Tree Planting Guidelines



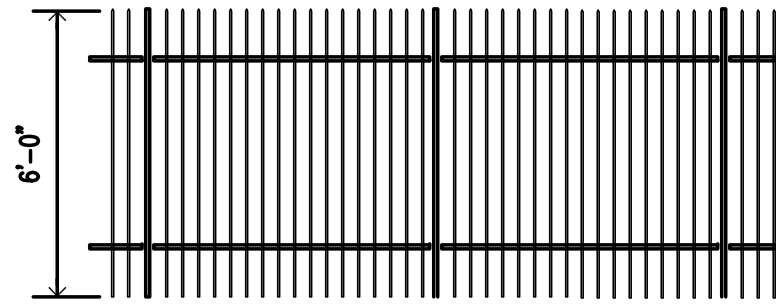
JUNE 2007

APPENDIX B - STREET TREE PLANTING CLEARANCES FROM EXISTING UTILITIES, FIRE HYDRANTS & STREETLIGHTS.	
GUIDELINES FOR THE PLANNING, DESIGN AND INSPECTION OF CITY STREETSCAPE PROJECTS	DEPARTMENT OF PUBLIC WORKS SAN JOSE CALIFORNIA

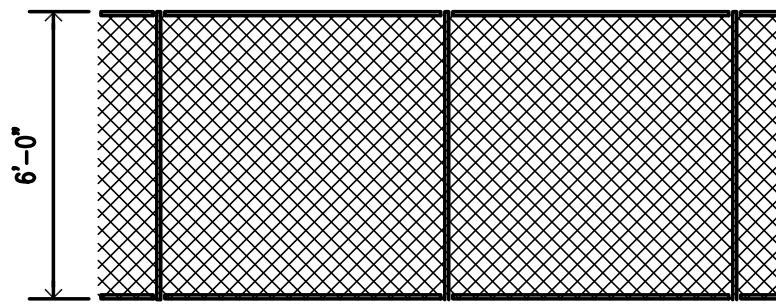


JUNE 2007

APPENDIX C - STREET TREE CLEARANCES FROM STREET CORNERS AND DRIVEWAYS	
GUIDELINES FOR THE PLANNING, DESIGN AND INSPECTION OF CITY STREETSCAPE PROJECTS	DEPARTMENT OF PUBLIC WORKS SAN JOSE CALIFORNIA



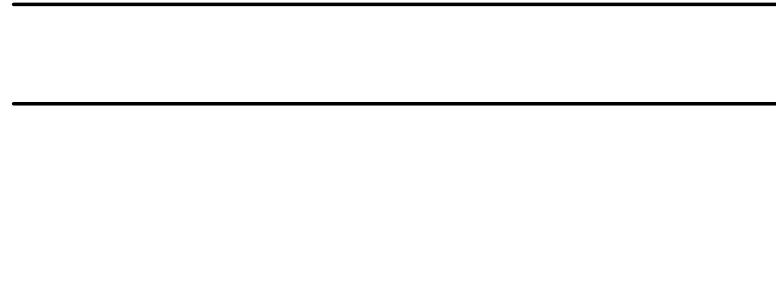
WROUGHT IRON FENCE ALONG
STATE STREET FRONTAGE.
2" SQUARE POSTS
1/2" SQUARE PICKETS AT 4" ON CENTER
PAINTED BLACK.



CHAIN LINK FENCING ALONG BACK AND SIDE PROPERTY LINES

landscape notes

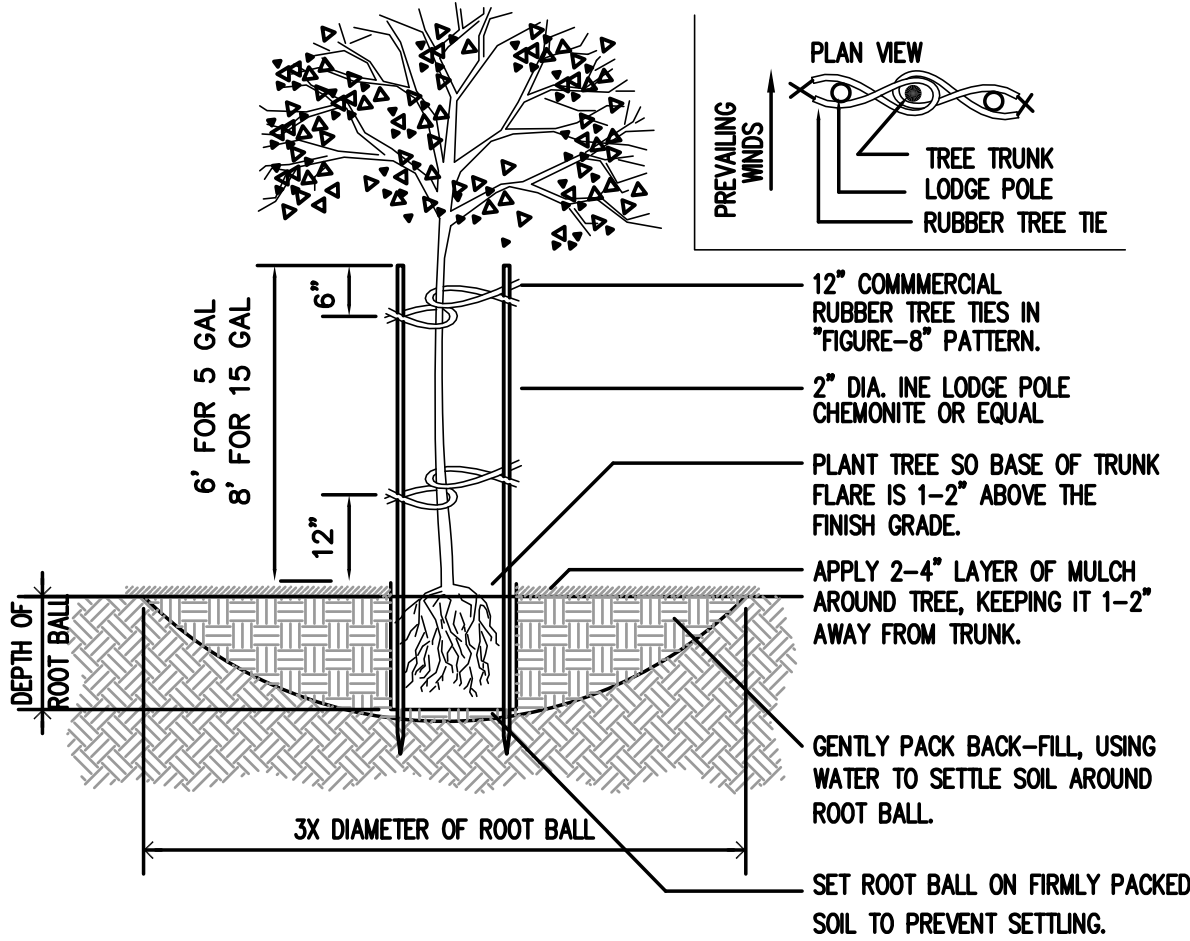
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Two-stake Tree Planting Detail

Appendix F—Street Tree Planting Guidelines

landscape plan

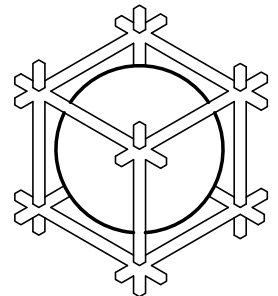


SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	NOTES
ARM	ARBUSUS 'MARINA'	MARINA STRAWBERRY TREE	15 GAL	STANDARD, NOT MULTI TRUNK
CHEL	CHONDROPETALUM ELEPHANTITUM	LARGE CAPE RUSH	5 GAL	
OLR	NERIUM OLEANDER 'LITTLE RED'	LITTLE RED OLEANDER	5 GAL	
BAC	BACCHARIS PILULARIS 'TWIN PEAKS'	DWARF COYOTE BRUSH	1 GAL	PLANT AT 5 FT CENTERS
JP	JUNCUS PATENS 'ELK BLUE'	BLUE CALIFORNIA GRAY RUSH	1 GAL	

- TILL SOIL TO A DEPTH OF 12" WHERE NEW PLANTINGS ARE SPECIFIED.
- AMEND SOIL WITH THE FOLLOWING:
A. REDWOOD COMPOST, AT A RATIO OF 2 PARTS SOIL TO 1 PART COMPOST.
B. CORN GLUTEN PRE-EMERGENT HERBICIDE (BIO-WEED OR EQUIVALENT), AT A RATIO OF 40 LBS. PER 1000 SQUARE FEET.
- SLOPE SOIL LEVEL IN PLANTING BEDS AWAY FROM ADJACENT BUILDINGS AT 2% MINIMUM. AND GRADE AS SHOWN IN CIVIL AND/OR STORMWATER PROTECTION PLANS.
- PROVIDE A 3" LAYER OF COMPOSTED, NON-FLOATABLE MULCH IN AREAS BETWEEN STORM WATER PROTECTION TREATMENT PLANTINGS.
- CONTRACTOR SHALL BUILD NEW IRRIGATION SYSTEM ON A DESIGN-BUILD BASIS. TIE IN NEW WORK TO EXISTING IRRIGATION LINES. WORK SHALL INCLUDE NEW IRRIGATION HEADS, CONTROLLERS, VALVES, ETC., AS NEEDED. WHERE APPROPRIATE, USE DRIPLINE IRRIGATION IN SHRUB BORDERS TO AVOID PROBLEMS WITH BLOCKED SPRAY AND OVERSPRAY. CONTRACTOR SHALL VERIFY THE SCOPE OF WORK PRIOR TO BIDDING.
- FIELD VERIFY EXISTING CONDITIONS PRIOR TO BIDDING.
- STREET TREES SHOWN IN THE PUBLIC RIGHT-OF-WAY ARE FOR INFORMATION ONLY. THE PLANNING PERMIT DOES NOT AUTHORIZE THE INSTALLATION OR REMOVAL OF TREES IN THE PUBLIC RIGHT OF WAY. ACTUAL STREET TREE LOCATION WILL BE DETERMINED BY PUBLIC WORKS AT THE IMPLEMENTATION STAGE ON THE PUBLIC IMPROVEMENT PLAN. THE INSTALLATION OR REMOVAL OF THE STREET TREES REQUIRES A PERMIT FROM THE DEPARTMENT OF TRANSPORTATION. THE CITY ARBORIST WILL SPECIFY THE SPECIES.

1/16"=1'-0"

2



wayne renschow
architect

111 W Saint John St. #950
San Jose, CA 95113
(408) 288 8033

consultant

consultant

- This sheet is part of a set and is not to be used alone.
- This sheet is not to be used for construction unless the architect's stamp and signature appear on drawings and status box indicates drawings have been released for construction.
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Improvements to
an existing site
& building

Site Development
Permit Application
H21-049

1436 State Street
Alviso, CA

#	description	date
1	PLANNING REVISIONS	8/7/19
2	PLANNING REVISIONS	9/10/20
3	PLANNING REVISIONS	2/12/21
4	PLANNING REVISIONS	5/17/21
5	PLANNING REVISIONS	9/1/21
6	PLANNING REVISIONS	1/19/22

revision	status	date
1	client review	
2		
3	plan check	
4	bidding	
5	construction	

date 10/24/18

proj num 1844

proj mgr WR

proj arch WR

scale

landscape
plan

sheet number
L1.0

PROJECT SITE INFORMATION:

1. SOILS TYPE: CLAY
2. GROUND WATER DEPTH: 0 TO 10 FT
3. NAME OF RECEIVING BODY: GUADALUPE RIVER
4. FLOOD ZONE: AE
5. FLOOD ELEVATION (IF APPLICABLE): 12 FEET (FROM FEMA)

DMA #	TCM #	Location	Treatment Type	LID or Non-LID	Sizing Method	Drainage Area (s.f.)	Impervious Area (s.f.)	Pervious Area (Permeable Pavement) (s.f.)	Pervious Area (Other) (s.f.)	% Onsite Area Treated by LID or Non-LID TCM	Bioretention Area Required (s.f.)	Bioretention Area Provided (s.f.)	Overflow Riser Height (in)	Storage Depth Required (ft)	Storage Depth Provided (ft)	# of Cartridges Required	# of Cartridges Provided	Media Type	Cartridge Height (inches)	# of Credit Trees	Treatment Credit (s.f.)	Comments
1	1	Onsite	Flow-Through planter (concrete lined*) w/ underdrain	LID	2C. Flow: 4% Method **	22,430	20,039	0	2,391	53.43%	802	832	6"	0.5'	0.5'							
2	2	Onsite	Flow-Through planter (concrete lined*) w/ underdrain	LID	2C. Flow: 4% Method **	2,752	2,473	0	279	6.56%	99	279	6"	0.5'	0.5'							
3	3	Onsite	Bioretention lined* w/ underdrain	LID	2C. Flow: 4% Method **	16,801	15,302	0	1,499	40.02%	612	725	6"	0.5'	0.5'							
4	4	Offsite	Maintenance	N/A	N/A	1,756	1,756	0	0	-												
5										-												
6										-												
7										-												
8										-												
9										-												
10										-												
11										-												
12										-												
13										-												
14										-												
15										-												
12										-												
13										-												
14										-												
15										-												
16										-												
17****										-												
EQ-1****										-												Being equivalently treated by EQ-1 Equivalent Treatment for DMA 17
Totals:						41,983	37,814	0	4,169	100.00%												

Footnotes:
* "Lined" refers to an impermeable liner placed on the bottom of a Bioretention basin or a concrete Flow-Through Planter, such that no infiltration into native soil occurs.
** Sizing for Bioretention Area Required calculated using the 4% Method (Impervious Area x 0.04)
*** Per Chapter 2.3 of the C3 Stormwater Handbook Roadway projects that add new sidewalk along an existing roadway are exempt from Provision C.3.c of the Municipal Stormwater Permit.

COMPARISON OF IMPERVIOUS AND PERVIOUS AREAS AT PROJECT SITE					
Project Phase Number: (N/A, 1, 2, 3, etc.)					
Total Site (acres):	0.96	Total Area of Site Disturbed (acres):	0.89		
IMPERVIOUS AREA (IA)	Pre-Project existing Impervious Area (sq.ft)	Exisiting Imperviou Area Retained As-Is (sq.ft)	Existing Imperious Area Replaced with Impervious Area (sq.ft)	New Impervious Area Created (sq.ft.)	Total Post Project Project Impervious Area (sq.ft)
SITE TOTAL					
Total Impervious Surfaces:	41,983	3100	34,714	0	37,814
Total New and Replaced Impervious Surfaces:	34,714				
PUBLIC STREET TOTAL					
Total Public Street Impervious Area	1,756	0	1,756	0	1,756
Total New and replaced Public Street	1,756				
Total Site and Public Street Impervious Area	43,739				39,570
Percent Replacement of Impervious in Redevelopment Projects (total site existing impervious area replaced with impervious area/total site pre-project existing impervious area)x100					82.69%
PERVIOUS AREA (PA)					
	Pre-Project existing Pervious Area (sq.ft)				Total Post Project Pervious Area
Total Pervious Area	0				4,169
Total Area (Impervious Area + Pervious Area)	43,739				43,739

STANDARD STORMWATER CONTROL NOTES:

- STANDING WATER SHALL NOT REMAIN IN THE TREATMENT MEASURES FOR MORE THAN FIVE DAYS, TO PREVENT MOSQUITO GENERATION. SHOULD ANY MOSQUITO ISSUES ARISE, CONTACT THE SANTA CLARA VALLEY VECTOR CONTROL DISTRICT (DISTRICT). MOSQUITO LARVICIDES SHALL BE APPLIED ONLY WHEN ABSOLUTELY NECESSARY, AS INDICATED BY THE DISTRICT, AND THEN ONLY BY A LICENSED PROFESSIONAL OR CONTRACTOR. CONTACT INFORMATION FOR THE DISTRICT IS PROVIDED BELOW.
- DO NOT USE PESTICIDES OR OTHER CHEMICAL APPLICATIONS TO TREAT DISEASED PLANTS, CONTROL WEEDS OR REMOVED UNWANTED GROWTH. EMPLOY NON-CHEMICAL CONTROLS (BIOLOGICAL, PHYSICAL AND CULTURAL CONTROLS) TO TREAT A PEST PROBLEM. PRUNE PLANTS PROPERLY AND AT THE APPROPRIATE TIME OF YEAR. PROVIDE ADEQUATE IRRIGATION FOR LANDSCAPE PLANTS. DO NOT OVER WATER.

SVEP CONSULTANTS

971 JULIET AVE.
SAN JOSE, CA 95127

SITE DEVELOPMENT PERMIT
H21-049
STORMWATER CONTROL CALCULATION
1436 STATE STREET
ALVISO, CA

REVISIONS

△	DATE	DESCRIPTION
△		
△		
△		
△		
△		

PROJECT:

DRAWN: YC

DESIGN: VR

SCALE: AS SHOWN

DATE: 01/19/22

PROJECT DATA

SHEET

C2

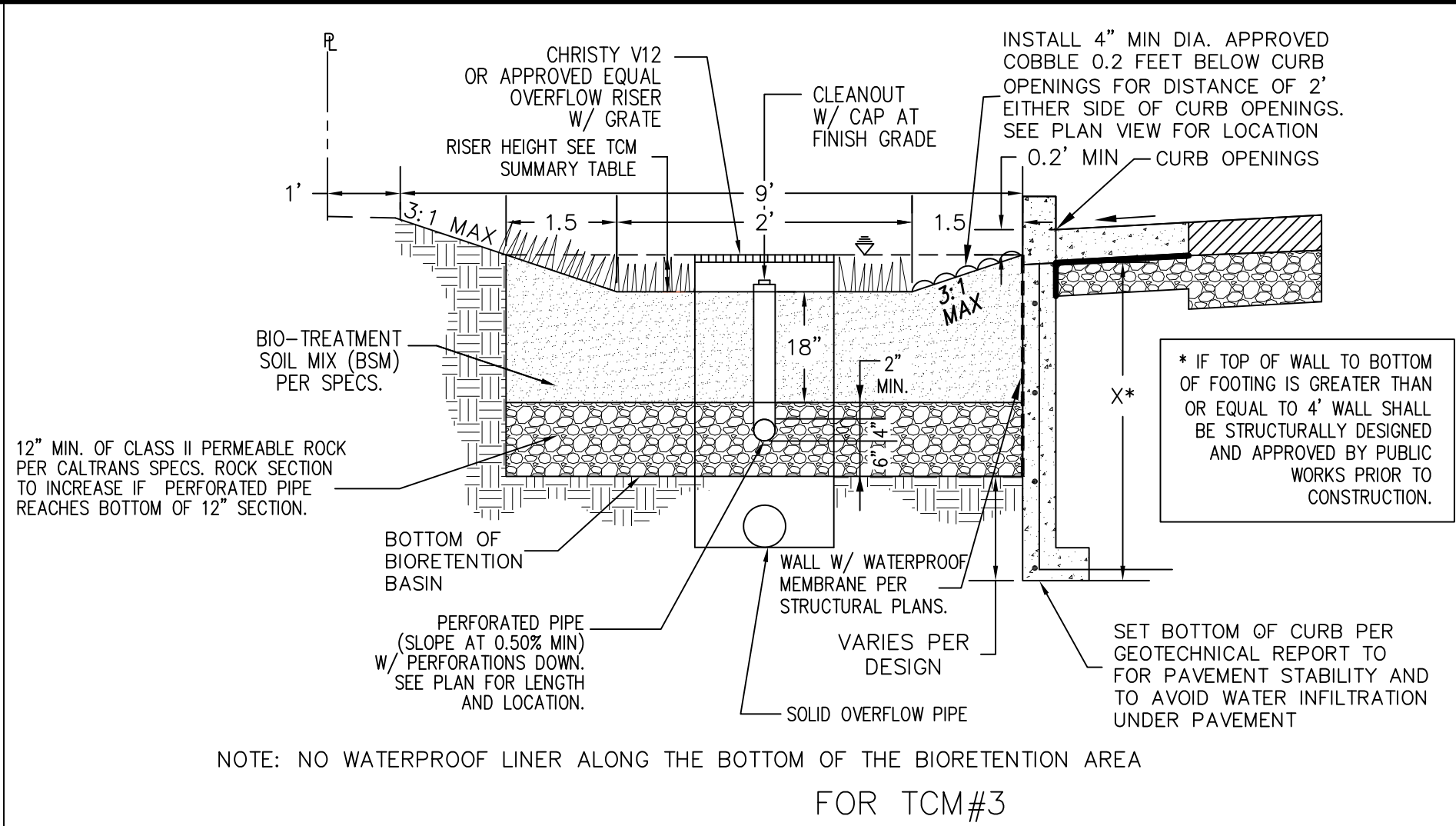
OF SHEETS 4

SOURCE CONTROL MEASURES:

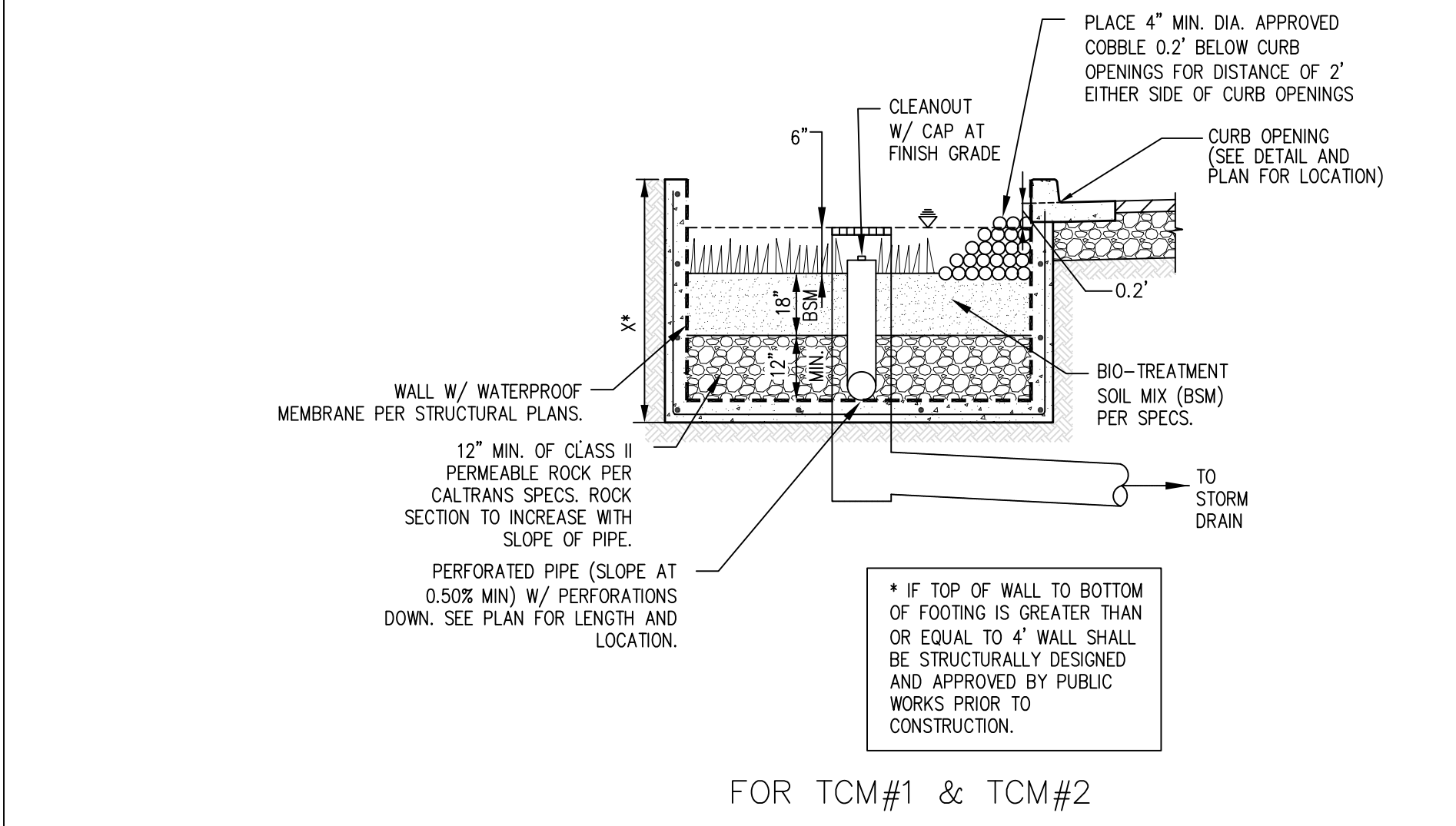
- CONNECT THE FOLLOWING FEATURES TO SANITARY SEWER:
 - COVERED TRASH/ RECYCLING ENCLOSURES.
- FACILITIES:
 - STOCKPILE MATERIAL ON AN IMPERVIOUS SURFACE OR UNDER PERMANENT ROOF OR COVERING, AS APPROPRIATE
 - DIRECT PONDED WATER TO THE SANITARY SEWER, ONSITE TREATMENT SYSTEM(S), OR TO OFFSITE DISPOSAL.
 - INSTALL BERMS OR CURBING TO PREVENT RUNOFF FROM THE STORAGE/ PROCESSING AREAS
 - SEGREGATE POLLUTANT GENERATING ACTIVITIES INTO A DISTINCT DRAINAGE MANAGEMENT AREA(S) AND PROVIDE TREATMENT.
- INDUSTRIAL USES (PROPANE AND ASPHALT SEALANT TANKS) INVOLVING THE STORAGE AND HANDING OF MATERIALS THAT HAVE THE POTENTIAL TO GENERATE POLLUTED STORMWATER RUNOFF SHALL BE CONDUCTED INDOORS OR UNDER A PERMANENT COVER TO PREVENT CONTACT WITH RAINFALL.
- BENEFICIAL LANDSCAPING.
- USE OF WATER EFFICIENT IRRIGATION SYSTEMS.
- MAINTENANCE (PAVEMENT SWEEPING, CATCH BASIN CLEANING, GOOD HOUSEKEEPING).
- STORM DRAIN LABELING.

SITE DESIGN MEASURES:

- PROTECT EXISTING TREES, VEGETATION, AND SOIL..
- REDUCE EXISTING IMPERVIOUS SURFACES.
- CREATE NEW PERVIOUS AREAS: LANDSCAPING
- DIRECT RUNOFF FROM ROOFS, SIDEWALKS, PATIOS TO LANDSCAPED AREAS.
- PLANT TREES ADJACENT TO AND IN PARKING AREAS AND ADJACENT TO OTHER IMPERVIOUS AREAS.
- PARKING:
 - NOT PROVIDED IN EXCESS OF CODE.

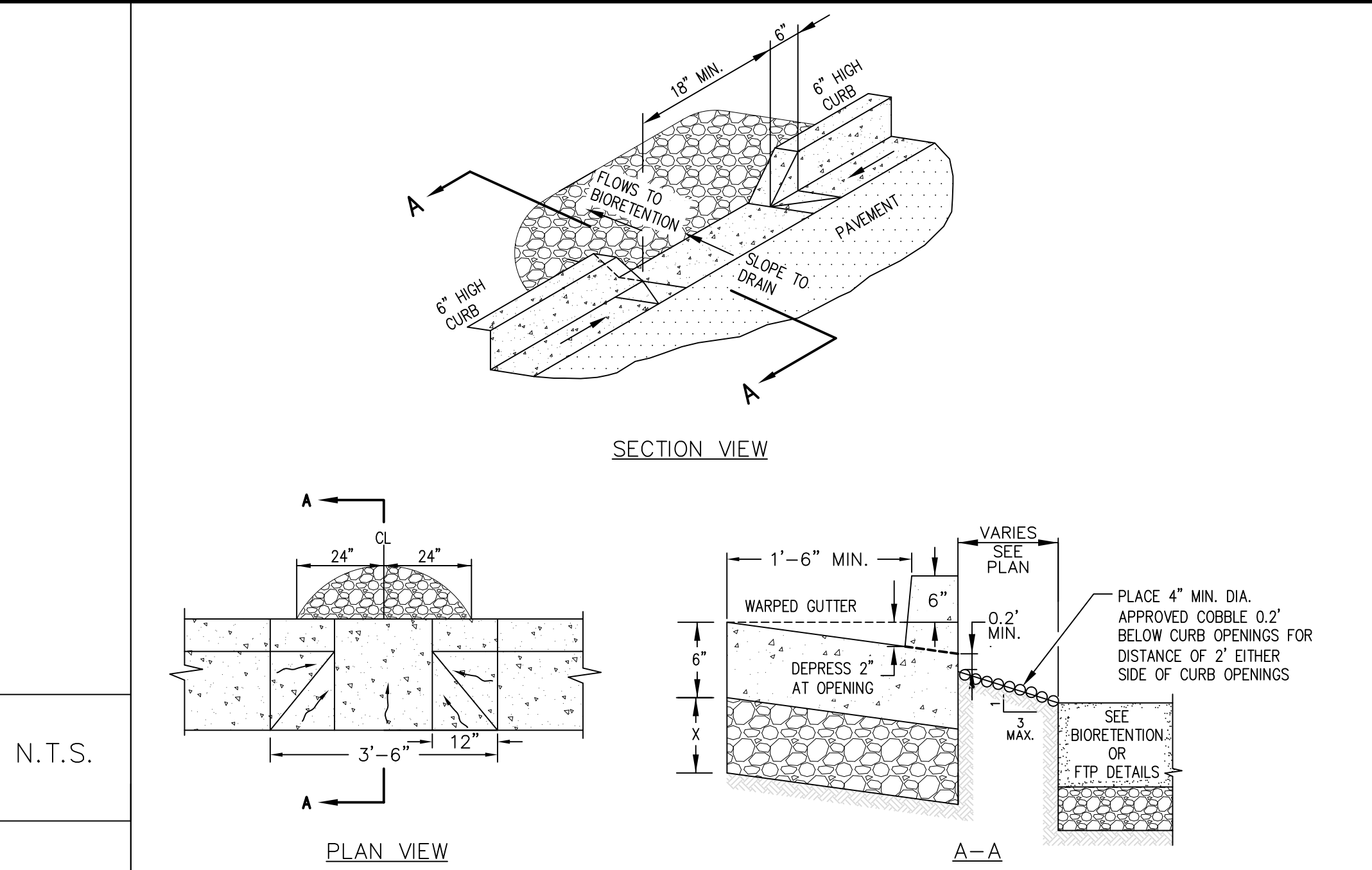


1 MODIFIED BIORETENTION BASIN (CURB ADJACENT TO BIORETENTION) N.T.S.



2 FLOW-THROUGH PLANTER (BELOW GRADE) N.T.S.

TABLE 1 ROUTINE MAINTENANCE ACTIVITIES FOR BIORETENTION AREAS		
NO.	MAINTENANCE TASK	FREQUENCY OF TASK
1	REMOVE OBSTRUCTIONS, WEEDS, DEBRIS AND TRASH FROM BIORETENTION AREA AND ITS INLETS AND OUTLETS; AND DISPOSE OF PROPERLY.	QUARTERLY, OR AS NEEDED AFTER STORM EVENTS
2	INSPECT BIORETENTION AREA FOR STANDING WATER. IF STANDING WATER DOES NOT DRAIN WITHIN 2-3 DAYS, TILL AND REPLACE THE SURFACE BIOTREATMENT SOIL WITH THE APPROVED SOIL MIX AND REPLANT.	QUARTERLY, OR AS NEEDED AFTER STORM EVENTS
3	CHECK UNDERDRAINS FOR CLOGGING. USE THE CLEANOUT RISER TO CLEAN ANY CLOGGED UNDERDRAINS.	QUARTERLY, OR AS NEEDED AFTER STORM EVENTS
4	MAINTAIN THE IRRIGATION SYSTEM AND ENSURE THAT PLANTS ARE RECEIVING THE CORRECT AMOUNT OF WATER (IF APPLICABLE).	QUARTERLY
5	ENSURE THAT THE VEGETATION IS HEALTHY AND DENSE ENOUGH TO PROVIDE FILTERING AND PROTECT SOILS FROM EROSION. PRUNE AND WEED THE BIORETENTION AREA. REMOVE AND/OR REPLACE ANY DEAD PLANTS.	ANNUALLY, BEFORE THE WET SEASON BEGINS
6	USE COMPOST AND OTHER NATURAL SOIL AMENDMENTS AND FERTILIZERS INSTEAD OF SYNTHETIC FERTILIZERS, ESPECIALLY IF THE SYSTEM USES AN UNDERDRAIN.	ANNUALLY, BEFORE THE WET SEASON BEGINS
7	CHECK THAT MULCH IS AT APPROPRIATE DEPTH (2 - 3 INCHES PER SOIL SPECIFICATIONS) AND REPLENISH AS NECESSARY BEFORE WET SEASON BEGINS. IT IS RECOMMENDED THAT 2" - 3" OF ARBOR MULCH BE REAPPLIED EVERY YEAR.	ANNUALLY, BEFORE THE WET SEASON BEGINS
8	INSPECT THE ENERGY DISSIPATION AT THE INLET TO ENSURE IT IS FUNCTIONING ADEQUATELY, AND THAT THERE IS NO SCOUR OF THE SURFACE MULCH. REMOVE ACCUMULATED SEDIMENT.	ANNUALLY, BEFORE THE WET SEASON BEGINS
9	INSPECT OVERFLOW PIPE TO ENSURE THAT IT CAN SAFELY CONVEY EXCESS FLOWS TO A STORM DRAIN. REPAIR OR REPLACE DAMAGED PIPING.	ANNUALLY, BEFORE THE WET SEASON BEGINS
10	REPLACE BIOTREATMENT SOIL AND MULCH, IF NEEDED. CHECK FOR STANDING WATER, STRUCTURAL FAILURE AND CLOGGED OVERFLOWS. REMOVE TRASH AND DEBRIS. REPLACE DEAD PLANTS.	ANNUALLY, BEFORE THE WET SEASON BEGINS
11	INSPECT BIORETENTION AREA USING THE ATTACHED INSPECTION CHECKLIST.	ANNUALLY, BEFORE THE WET SEASON

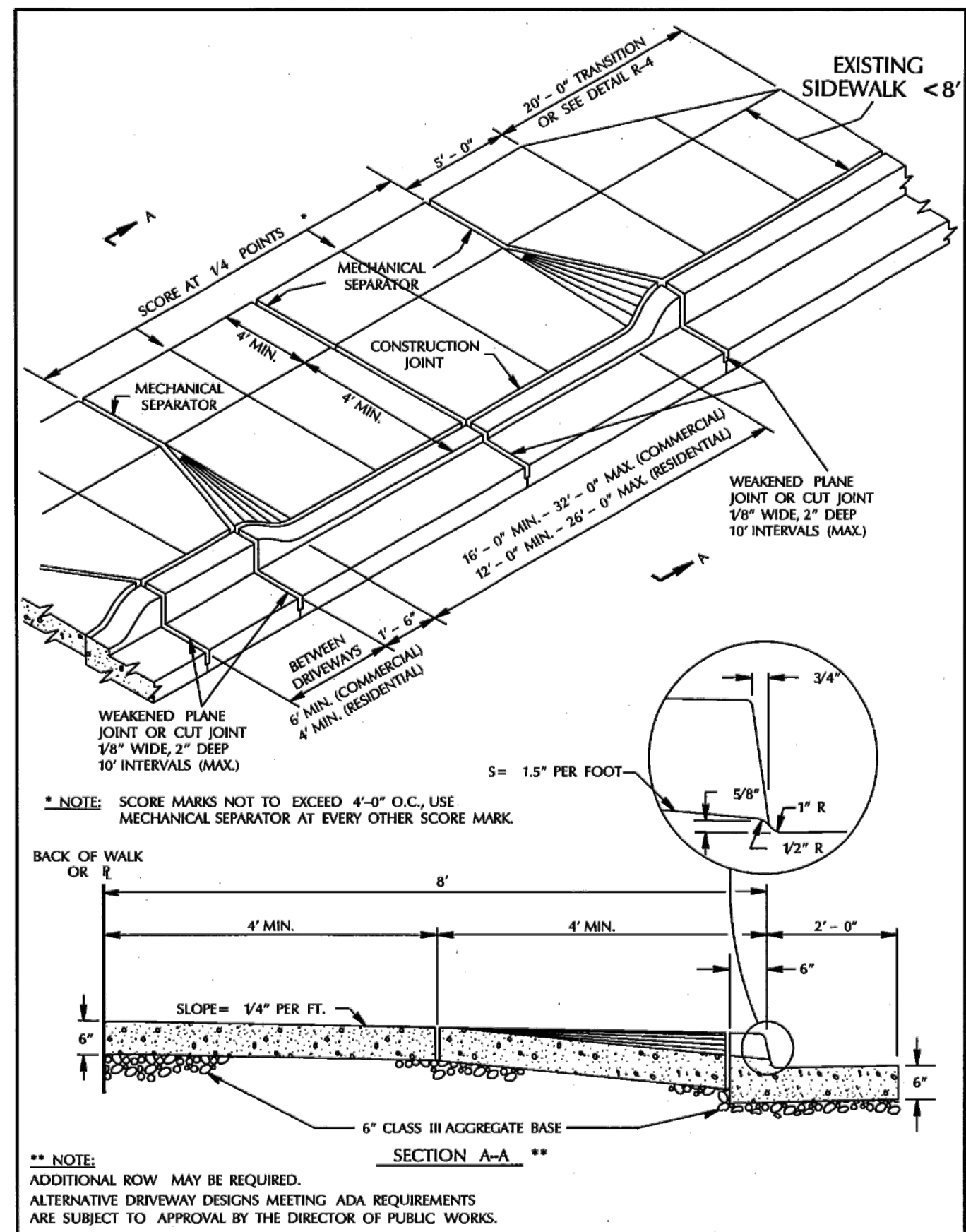


3 CURB OPENING N.T.S.

TABLE 1 ROUTINE MAINTENANCE ACTIVITIES FOR FLOW-THROUGH PLANTERS		
NO.	MAINTENANCE TASK	FREQUENCY OF TASK
1	INSPECT THE PLANTER SURFACE AREA, INLETS AND OUTLETS FOR OBSTRUCTIONS AND TRASH; CLEAR ANY OBSTRUCTIONS AND REMOVE TRASH.	QUARTERLY
2	INSPECT PLANTER FOR STANDING WATER. IF STANDING WATER DOES NOT DRAIN WITHIN 2-3 DAYS, THE SURFACE BIOTREATMENT SOIL SHOULD BE TILLED OR REPLACED WITH THE APPROVED SOIL MIX AND REPLANTED. USE THE CLEANOUT RISER TO CLEAR ANY UNDERDRAINS OF OBSTRUCTIONS OR CLOGGING MATERIAL.	QUARTERLY
3	CHECK FOR ERODED OR SETTLED BIOTREATMENT SOIL MEDIA. LEVEL SOIL WITH RAKE AND REMOVE/REPLANT VEGETATION AS NECESSARY.	QUARTERLY
4	MAINTAIN THE VEGETATION AND IRRIGATION SYSTEM. PRUNE AND WEED TO KEEP FLOW-THROUGH PLANTER NEAT AND ORDERLY IN APPEARANCE.	QUARTERLY
5	EVALUATE HEALTH AND DENSITY OF VEGETATION. REMOVE AND REPLACE ALL DEAD AND DISEASED VEGETATION. REMOVE EXCESSIVE GROWTH OF PLANTS THAT ARE TOO CLOSE TOGETHER.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
6	USE COMPOST AND OTHER NATURAL SOIL AMENDMENTS AND FERTILIZERS INSTEAD OF SYNTHETIC FERTILIZERS, ESPECIALLY IF THE SYSTEM USES AN UNDERDRAIN.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
7	INSPECT THE OVERFLOW PIPE TO MAKE SURE THAT IT CAN SAFELY CONVEY EXCESS FLOWS TO A STORM DRAIN. REPAIR OR REPLACE ANY DAMAGED OR DISCONNECTED PIPING. USE THE CLEANOUT RISER TO CLEAR UNDERDRAINS OF OBSTRUCTIONS OR CLOGGING MATERIAL.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
8	INSPECT THE ENERGY DISSIPATOR AT THE INLET TO ENSURE IT IS FUNCTIONING ADEQUATELY, AND THAT THERE IS NO SCOUR OF THE SURFACE MULCH. REMOVE ANY ACCUMULATION OF SEDIMENT.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
9	INSPECT AND, IF NEEDED, REPLACE WOOD MULCH. IT IS RECOMMENDED THAT 2" TO 3" OF COMPOSTED ARBOR MULCH BE APPLIED ONCE A YEAR.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
10	INSPECT SYSTEM FOR EROSION OF BIOTREATMENT SOIL MEDIA, LOSS OF MULCH, STANDING WATER, CLOGGED OVERFLOWS, WEEDS, TRASH AND DEAD PLANTS. IF USING ROCK MULCH, CHECK FOR 3" OF COVERAGE.	ANNUALLY AT THE END OF THE RAINY SEASON AND/OR AFTER LARGE STORM EVENTS.
11	INSPECT SYSTEM FOR STRUCTURAL INTEGRITY OF WALLS, FLOW SPREADERS, ENERGY DISSIPATORS, CURB CUTS, OUTLETS AND FLOW SPLITTERS.	ANNUALLY AT THE END OF THE RAINY SEASON AND/OR AFTER LARGE STORM EVENTS.

- BIOTREATMENT SOIL REQUIREMENTS**
- BIOTRETENTION SOIL MIX SHALL MEET THE REQUIREMENTS AS OUTLINED IN APPENDIX C OF THE C.3 STORM WATER HANDBOOK AND SHALL BE A MIXTURE OF FINE SAND AND COMPOST MEASURED ON A VOLUME BASIS OF 60-70% SAND AND 30-40% COMPOST. CONTRACTOR TO REFER TO APPENDIX C FOR SAND AND COMPOST MATERIAL SPECIFICATIONS. CONTRACTOR MAY OBTAIN A COPY OF THE C3 HANDBOOK AT : [HTTP://WWW.SANJOSECA.GOV/INDEX.ASPX?NID=1761](http://www.sanjoseca.gov/index.aspx?nid=1761)
 - PRIOR TO ORDERING THE BIOTREATMENT SOIL MIX OR DELIVERY TO THE PROJECT SITE, CONTRACTOR SHALL PROVIDE A BIOTREATMENT SOIL MIX SPECIFICATION CHECKLIST, COMPLETED BY THE SOIL MIX SUPPLIER AND CERTIFIED TESTING LAB.

- BIORETENTION & FLOW-THROUGH PLANTER NOTES:**
- SEE GRADING PLAN FOR BASIN FOOTPRINT AND DESIGN ELEVATIONS.
 - PLACE 3 INCHES OF COMPOSTED, NON-FLOATABLE MULCH IN AREAS BETWEEN STORMWATER PLANTINGS.
 - SEE LANDSCAPE PLAN FOR MULCH, PLANT MATERIALS AND IRRIGATION REQUIREMENTS
 - CURB CUTS SHALL BE A MINIMUM 18" WIDE AND SPACED AT MAXIMUM 10' O.C. INTERVALS AND SLOPED TO DIRECT STORMWATER TO DRAIN INTO THE BASIN. CURB CUTS SHALL ALSO NOT BE PLACED INLINE WITH OVERFLOW CATCH BASIN. SEE GRADING PLAN FOR MORE DETAIL ON LOCATIONS OF CURB CUTS.
 - A MINIMUM 0.2' DROP BETWEEN STORM WATER ENTRY POINT (I.E. CURB OPENING, FLUSH CURB, ETC.) AND ADJACENT LANDSCAPE FINISHED GRADE.
 - DO NOT COMPACT NATIVE SOIL / SUBGRADE AT BOTTOM OF BASIN. LOOSEN SOIL TO 12" DEPTH.



APPROVED BY: *[Signature]* DATE: 4-27-06
RESIDENTIAL AND COMMERCIAL DWY. (FOR EXISTING ATTACHED SIDEWALK < 8') (For Retrofit Only)
DEPARTMENT OF PUBLIC WORKS
CITY OF SAN JOSE
OFFICE OF DESIGN & CONSTRUCTION
DRAWING NO. R-7

- OPERATION AND MAINTENANCE INFORMATION:**
- PROPERTY INFORMATION:**
I.A. PROPERTY ADDRESS: 1436 STATE STREET, ALVISO, CA
I.B. PROPERTY OWNER: PACIFIC SURFACING INC.
 - RESPONSIBLE PARTY FOR MAINTENANCE:**
II.A. CONTACT: SETH MARTINEZ
II.B. PHONE NUMBER OF CONTACT: 408.639.0076
II.C. EMAIL: SETH@PACIFICSURFACING.COM
II.D. ADDRESS: 1436 STATE STREET, ALVISO, CA 95002

SVEP CONSULTANTS
971 JULIET AVE.
SAN JOSE, CA 95127

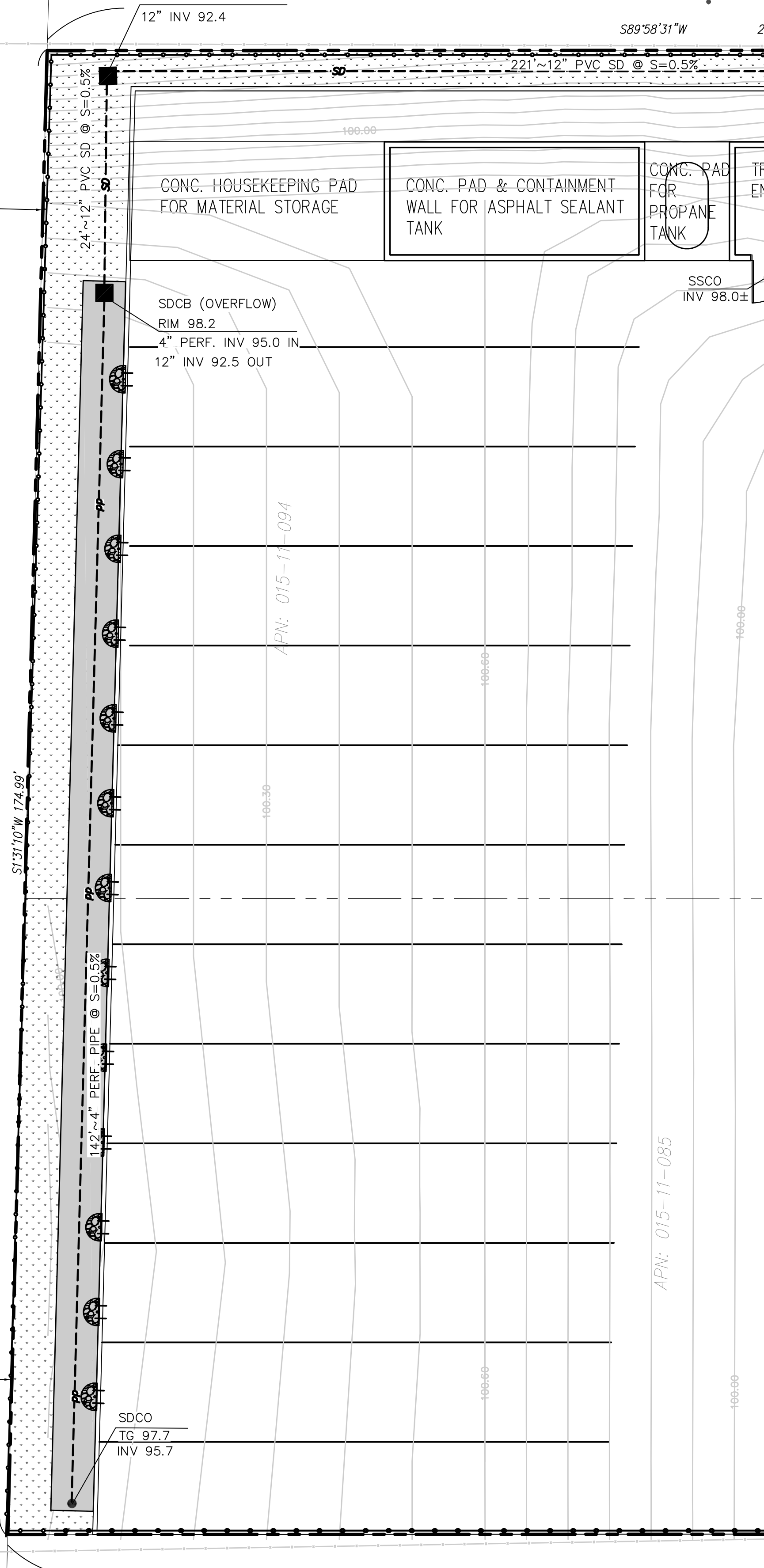
SITE DEVELOPMENT PERMIT
H21-049
STORMWATER CONTROL DETAILS
1436 STATE STREET
ALVISO, CA

REVISIONS	
DATE	DESCRIPTION
△	
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△	
△	

PROJECT:
DRAWN: YC
DESIGN: VR
SCALE: AS SHOWN
DATE: 01/19/22

PROJECT DATA

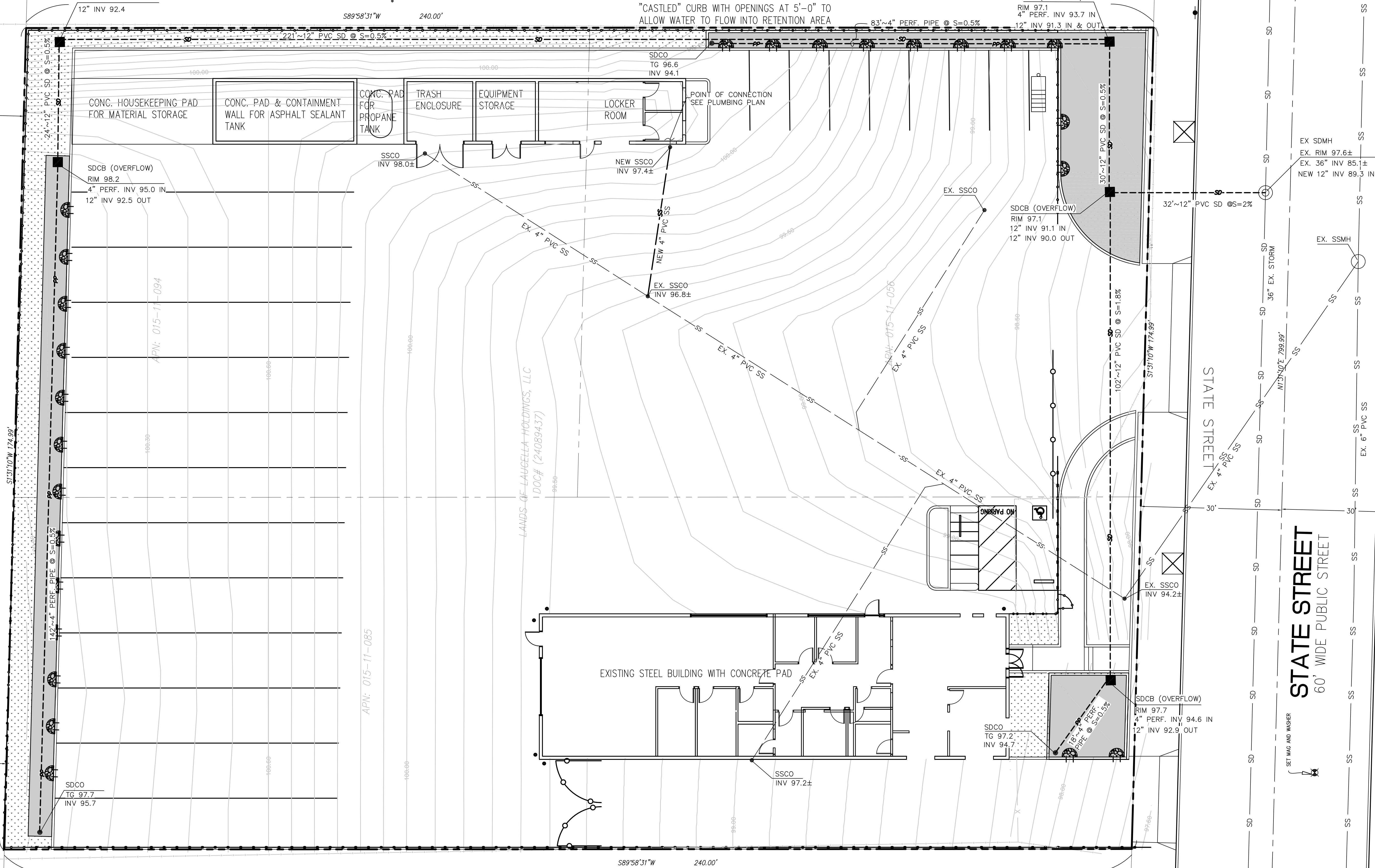
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C3
OF SHEETS 4



NOTES:

1. TOPO & ELEVATION INFORMATION PROVIDED BY CLIENT
2. SANITARY SEWER INFORMATION PROVIDED BY CLIENT. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY.

ABBREVIATION:			
FF	Finished Floor	PVC	Polyvinyl Chloride
FS	Finished Surface	SD	Storm Drain
HI	High	SDCB	Storm Drain Catch Basin
INV	Invert	SDCO	Storm Drain Clean Out
PT	Point	SDMH	Storm Drain Manhole
		SSCO	Sanitary Sewer Clean Out
		SSMH	Sanitary Sewer Manhole



SVEP CONSULTANTS

971 JULIET AVE.
SAN JOSE, CA 95127

**SITE DEVELOPMENT PERMIT
H21-049
PRELIMINARY UTILITY PLAN**

1436 STATE STREET
ALVISO, CA

REVISIONS

DATE	DESCRIPTION
△	
△	
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△	
△	

PROJECT:

DRAWN: YC

DESIGN: VR

SCALE: AS SHOWN

PROJECT DATA

SHEET

C4

OF SHEETS 4

Exhibit D:

Initial Study, Mitigated Negative Declaration, technical reports, and
Responses to Comments

The Initial Study, Mitigated Negative Declaration, technical reports, and
Responses to Comments for the 1436 State Street Project (H21-049) are
available here at www.sanjoseca.gov/negativedeclarations

ADMINISTRATIVE DRAFT
Response to Project Appellant Comments
1436 State Street Project
San José, Santa Clara County, California

Prepared for:



City of San José

Planning Division

200 E. Santa Clara Street, 3rd Floor
San José, CA 95113

Contact: Thai-Chau Le, Planner

Prepared by:

FirstCarbon Solutions

1350 Treat Boulevard, Suite 380
Walnut Creek, CA 94597
925.357.2562

Contact: Mary Bean, Project Director
Tsui Li, Project Manager

Date: February 15, 2022

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1.1 - Document Organization 1-1

Section 2: Responses to Appeal of planning director approval 2-1

2.1 - Responses to Comments 2-1

2.1.1 - Introduction 2-1

2.1.2 - Comment Letters and Responses..... 2-1

Appendix A: Operational Health Risk Assessment

Appendix B: Operations Plan

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SECTION 1: INTRODUCTION

The 1436 State Street Project Initial Study/Mitigated Negative Declaration (IS/MND), dated September 3, 2021, was publicly circulated for comments between Friday September 3, 2021 and Monday October 4, 2021. During the circulation period, the City of San José received seven comments. Formal Responses to those comments (RTC) and Errata to the circulated IS/MND were completed and posted on the City's website prior to any public hearing. Collectively, the formal Response to Comments (RTC), Errata, and the circulated IS/MND are all part of the IS/MND approved by the Planning Director on December 8, 2021.

Following the approval of the project by the Planning Director on December 8, 2021, Mark Espinoza on behalf of the community of Alviso filed a request for appeal of the Planning Director decision

The City of San José Planning Division has prepared the following Responses to Project Appellant Comments received on the 1436 State Street Project IS/MND. The Responses to Comments, which are included in this document, together with the IS/MND, IS/MND appendices, and the Mitigation Monitoring and Reporting Program (MMRP), comprise the Responses to Project Appellant Comments for use by the City of San José in its review and consideration of the 1436 State Street Project.

1.1 - Document Organization

This document is organized into two sections:

- **Section 1—Introduction.**
- **Section 2—Responses to Appeal of Planning Director Approval:** The letter received regarding the IS/MND and responses thereto are included in this section.

The Responses to Project Appellant Comments includes the following contents:

- IS/MND (provided under separate cover)
- IS/MND appendices (provided under separate cover)
- Responses to Written Comments (Section 2)
- Mitigation Monitoring and Reporting Program (provided under separate cover)

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SECTION 2: RESPONSES TO APPEAL OF PLANNING DIRECTOR APPROVAL

2.1 - Responses to Comments

2.1.1 - Introduction

Following the approval of the project by the Planning Director on December 8, 2021, Mark Espinoza filed a request for an environmental appeal of the Planning Director decision on December 10, 2021. The letter and detailed staff responses to the concerns raised therein are discussed in Section 2. None of the comments received results in the need to recirculate the Initial Study/Mitigated Negative Declaration (IS/MND) or to prepare an Environmental Impact Report (EIR). The reasons for the environmental appeal are a combination of all issues raised during the public circulation of the IS/MND and during the Director's Hearing on December 8, 2021.

Each comment in the letter has been numbered so comments can be cross-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

Author	Author Code
Mark Espinoza	ESPINOZA

While most of the issues in this comment letter were previously raised during the IS/MND public review period, it should be noted that the following new comments and issues are raised in the appeal letter:

- Alviso being a disadvantaged community (Comments ESPINOZA-11 and ESPINOZA-14).Request for a truck traffic monitoring report (Comment ESPINOZA-12).
- Request for the proposed project to adhere to air quality thresholds beyond what is currently required in the 2017 Bay Area Air Quality Management District (BAAQMD) Guidelines (Comment ESPINOZA-12).
- Consideration of disproportionate impacts in the General Plan (Comment ESPINOZA-13).

2.1.2 - Comment Letters and Responses

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December 10, 2021

Thai-Chau Le
CEQA Planning Supervisor
200 E. Santa Clara Street
San Jose, CA 95113
Thai-Chau.Le@sanjoseca.gov

Re: Appeal of Environmental Determination-1436 State Street Project Initial Study/Mitigated Negative Declaration **FILE NOS: H21-049 (FORMERLY SP18-058) AND ER21-110)**

Dear Ms. Thai-Chau Le:

The community of Alviso is submitting simultaneously the Appeal of Environmental Determination and the Permit Appeal for the 1436 State Street Project Initial Study/Mitigated Negative Declaration (IS/MD). As documented in the IS/MND Technical Appendix A (p. A.1-1) this project proposes:

Note 2. Land uses and sizes are drawn from the site plans for proposed development dated August 7, 2019. Land uses utilized in the emissions model represent the following:

- **Parking > Parking Lot > 23 x Space** = Proposed parking area. Square footage adjusted to match Applicant-provided information dated April 2, 2021.
- **Parking > Other Non-Asphalt Surfaces > 0.61 x 1000 sqft** = Proposed 605 square feet of new sidewalk.
- **Parking > Other Asphalt Surfaces > 4.42 x 1000 sqft** = Balance of project site, paved area for equipment storage.
- **Recreational > Health Club > 0.64 x 1000 sqft** = Proposed 635 square foot employee locker room building.
- **Recreational > City Park > 0.09 x acre** = Proposed 3,872 square feet of landscaping.
- **Industrial > Unrefrigerated Warehouse-No Rail > 3.00 x 1000sqft** = Existing warehouse to be repurposed as contractor warehouse and office. Lot acreage was reduced to zero to remove any grading requirements associated with project construction for this area.
- **Note 3. Construction activities and equipment list were adjusted to match Applicant-provided information dated April 2, 2021.**

This proposed corporation yard/ warehouse project with 5 light duty trucks (10 daily), 9 medium duty trucks (18 daily), 7 heavy duty trucks (14 daily), and 5 personal vehicles (52 daily) trucks will have approximate 94 daily vehicle trips.

This attachment includes all previous submissions pertaining to the Proposed Project. The Final Initial Study/Mitigated Negative Declaration which includes the City of San Jose's Responses to Written Comments were inadequate.

The IS/MND is vague about what activities will be taking place at the site once construction is complete. The IS/MND repeatedly describes the project as "interior improvements of the existing building on the site, repaving and striping the site, rebuilding an existing utility building, a new exterior storage equipment area and the reconfiguration of the gates." This is an

1

2

inadequate project description. The IS/MND must be revised and recirculated to thoroughly and accurately explain what activities will occur over the project's life time that might affect air quality, noise, greenhouse gas emissions, and any other environmental impact category. **[For example: The City did not provide an adequate explanation in their response for the project description, see page 2-39 per CEQA §15124]**

2
CONT

The IS/MND appears to evaluate potential health impacts to local residents from exposure to diesel exhaust emissions during project construction, which will be of short duration, but does not do so for emissions during project operation, which will be long-term. Long-term exposure to diesel exhaust can cause serious health problems, especially in children. This is especially true when there are already significant levels of toxic air pollutant emissions in the area, which is the case for Alviso. The IS/MND needs to consider health risks from adding this project's emissions to existing pollution levels. **[For example: The City did not provide substantial evidence and explanation in their response, see page 2-39, for air quality impacts during project operations.]**

3

The noise assessment simply reports sound measurements taken at the applicant's Fremont facility on 2 days in 2019. There is no indication or explanation to establish that these measurements are in any way representative of what would occur at the Alviso site.

4

The City should revise the IS/MND to address the deficiencies described above before it can approve this project.

5

From: Mark Espinoza

Sent: Thursday, September 30, 2021 11:49 AM

To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>

Cc: District4 <District4@sanjoseca.gov>; Shani Kleinhaus <shanibirds@gmail.com>; Eileen McLaughlin

<wildlifestewards@aol.com>

Subject: Re: 1436 State street Alviso

[External Email]

Hi Thai

I'd like this article to be added to the comment period for the 1436 State street project.

6

I believe the studies have not addressed the cumulative impact associated with this project. There are many other PM sources that are present within a 1000 feet of the project but have yet to be considered when the analysis generated their reports. Thereby producing a flawed inaccurate report.

6
CONT

<https://pubmed.ncbi.nlm.nih.gov/21555471/>

Chau <Thai-Chau.Le@sanjoseca.gov>

Subject: project proposal @1436 State Street

I'd like to submit the attached photographs to illustrate the current damaged street @ 1592 Grand blvd. where I reside. The first photograph is of a nondamaged roadway located @1235 Wabash Street. As evident there is no damage to the asphalt. Whereas the following photographs located @1592 Grand Blvd we can see the entire section of roadway distressed due to traffic loading. Which means heavy loaded truck traffic.

7

Your applicant wishes to have this damage continue with the added truck traffic in his proposed project. Why has this not been included in the studies provided. I would request for this project to complete an EIR because there are more impacts found that have not been discussed, studies, and or evaluated.

I can already identify disparities given we are a low income community a community of minorities. Thanks
OCA President
From: Marcos Espinoza

Sent: Sunday, October 3, 2021 7:12 PM

To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Subject: Proposed project in Alviso

Learn why this is important at
<http://aka.ms/LearnAboutSenderIdentification>.]

Dear Thai,

My name is Marcos Espinoza and I am a resident of Alviso Ca. I'm am opposed to the proposed projectat the site of 1436 State Street Alviso Ca 95002. I oppose this project due to many reasons. The first being the environmental impact this will cause to Alviso residents. Allowing diesel trucks to operate within a small community impacts the health and well being of the community. There are multiple

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student bus stops close to this site and this will affect the kids who use the bus service. Also the site will

operate as an asphalt company. Asphalt produces toxic air with is known to be carcinogenic. To allow anasphalt company to operate literally in front of people houses is wrong. There are many other businesses that operate on state street that are illegal and any study that may be done does not take into account the overall impact of all of those businesses plus the new proposed project.

Thanks,

Marcos Espinoza

Currently the community of Alviso has at least a dozen construction type of land-uses. This proposed corporation yard/ warehouse project with 5 light duty trucks (10 daily), 9 medium duty trucks (18 daily), 7 heavy duty trucks (14 daily), and 5 personal vehicles (52 daily) trucks will have approximate 94 daily vehicle trips. Although this project incrementally is less than significant with mitigation incorporated, the small community of Alviso is cumulatively and disproportionately burden with environmental impacts.

9

Cumulative Air Quality Impacts for Sensitive Receptors and MANDATORY FINDINGS OF SIGNIFICANCE

As you know, the BAAQMD is in the process of updating their CEQA thresholds.

- The BAAQMD thresholds have not been updated since 2010. The 2017 version solely reflects the *California Supreme Court's 2015 opinion in Cal. Bldg. Indus. Ass'n vs. Bay Area Air Quality Mgmt. Dist.*, 62 Cal.4th 369. Per BAAQMD's website: "The Guidelines for implementation of the thresholds are for information purposes only to assist local agencies. Recommendations in the Guidelines are advisory and should be followed by local governments at their own discretion. These Guidelines may inform environmental review for development projects in the Bay Area, but do not commit local governments or the Air District to any specific course of regulatory action."¹² On page 2-39 of the State Street IS/MND

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¹ [CEQA Guidelines Update \(baaqmd.gov\)](http://baaqmd.gov) date accessed December 8, 2021.

² Per (2021) CEQA 15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT

CEQA Comments and Responses: “Furthermore, the BAAQMD was notified of the circulation of the Draft Initial Study and did not provide comments.” The absence of a comment letter from BAAQMD does not provide substantial evidence that this project will not have any significant impacts.

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CONT

The 1436 State Street Project IS/MND did not adequately disclose that Alviso is designated as SB1000, SB 535 Disadvantaged Community, and AB1550 Low-Income (Figure 1). In addition, Alviso narrowly missed the CalEPA’s top 30% percentile vulnerability rank of cumulative impacts via the CalEnviroScreen 4.0 screening tool (Figure 2).³ The Alviso residents are disproportionately affected by contamination, air pollution, and many cumulative environmental issues: the former South Bay Asbestos Area on the National Priority List (NPL), the Union Pacific Railroad, Highway 237, methane vapor from the Newby Island Landfill and Zanker Recycling Zero Waste Energy, the Calpine Energy Plant, facilities with hazardous wastes, large Google warehouses, the (Approved Development)Microsoft San Jose Data Center, the RWF Cogeneration Project for the San Jose/Santa Clara Water Pollution Control Plant (WPCP), and numerous unpermitted business with diesel trucks, Topgolf Entertainment Center’s traffic impacts, and other proposed projects.⁴

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With this evidence, an additional project condition should require a monitoring report that the truck traffic for the State Street Project does not use residential streets and do not exceed their daily vehicle trips. In addition, this project must implement per the California Attorney General’s Bureau of Environmental Justice (Bureau) “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act”.⁵

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[The CEQA 2021 Statutes and Guidelines does not preclude the Lead Agency from requiring conditions to the project or additional mitigation measures not included in the BAAQMD CEQA 2017 Air Quality Guidelines. As noted above, the thresholds and guidelines are the same from 2010. For example, the 2017 BAAQMD Guidelines includes URBEMIS and not CalEEMod for analysis and mitigation measures. Yet, the City of San Jose allows for CalEEMod analysis and the mitigation measures in this software.]

-
- (a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.
 - (b) (2) Thresholds of significance, as defined in Section 15064.7(a), may assist lead agencies in determining whether a project may cause a significant impact. When using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project's impacts are less than significant. **Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating that the project’s environmental effects may still be significant.**

³ [CalEnviroScreen 4.0 | OEHHA](#)

⁴ [RWF Cogeneration Project | City of San Jose \(sanjoseca.gov\)](#) [San Jose City Data Center, Licensing Case - Docket # 2019-SPPE-04](#)

⁵ [Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act](#)

Land-Use

Although the proposed project's zoning is consistent with the Alviso Master Plan and the General Plan, it does not environmentally reflect the significant changes and amendments to the General Plan over many years. Since the adoption of the General Plan in 2011, significant legislative laws have been approved such as SB 1000.⁶ As a City of San Jose resident, I hope City leaders and the Manager's Office of Racial Equity⁷ will soon implement SB 1000.⁸ Ethically, the City has an obligation to consider the disproportionate impacts to the Alviso residents.

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⁶ [Envision San José 2040 General Plan | City of San Jose \(sanjoseca.gov\)](#)

⁷ [Racial Equity | City of San Jose \(sanjoseca.gov\)](#)

⁸ Per CA State Attorney General "In 2016, the California Legislature passed Senate Bill (SB) 1000, codified at Government Code section 65302, subdivision (h), to incorporate environmental justice into the local land use planning process. SB 1000 requires local governments to address pollution and other hazards that disproportionately impact low-income communities and communities of color in their jurisdiction. If a local government adopts or updates two or more elements of its general plan after January 1, 2018, SB 1000 requires the local government to identify any "disadvantaged communities" within its planning area. (Gov. Code, § 65302, subds. (h)(1)–(2).) The law defines "disadvantaged communities" to include two identification methods: (1) "an area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the Health and Safety Code"; or (2) "an area that is low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation." (Gov. Code, § 65302, subd. (h)(4)(A).) If a local government identifies one or more disadvantaged communities in its planning area, its general plan must have either an "environmental justice element" or "related goals, policies, and objectives integrated in other elements" (collectively, "EJ policies") that "reduce the unique or compounded health risks in disadvantaged communities" by addressing eight different topics, such as reducing pollution exposure, promoting public improvements, promoting safe and sanitary homes, and promoting public engagement in the local decision making process. (Gov. Code, § 65302, subd. (h)(1).)" [SB 1000 - Environmental Justice in Local Land Use Planning | State of California - Department of Justice - Office of the Attorney General](#)

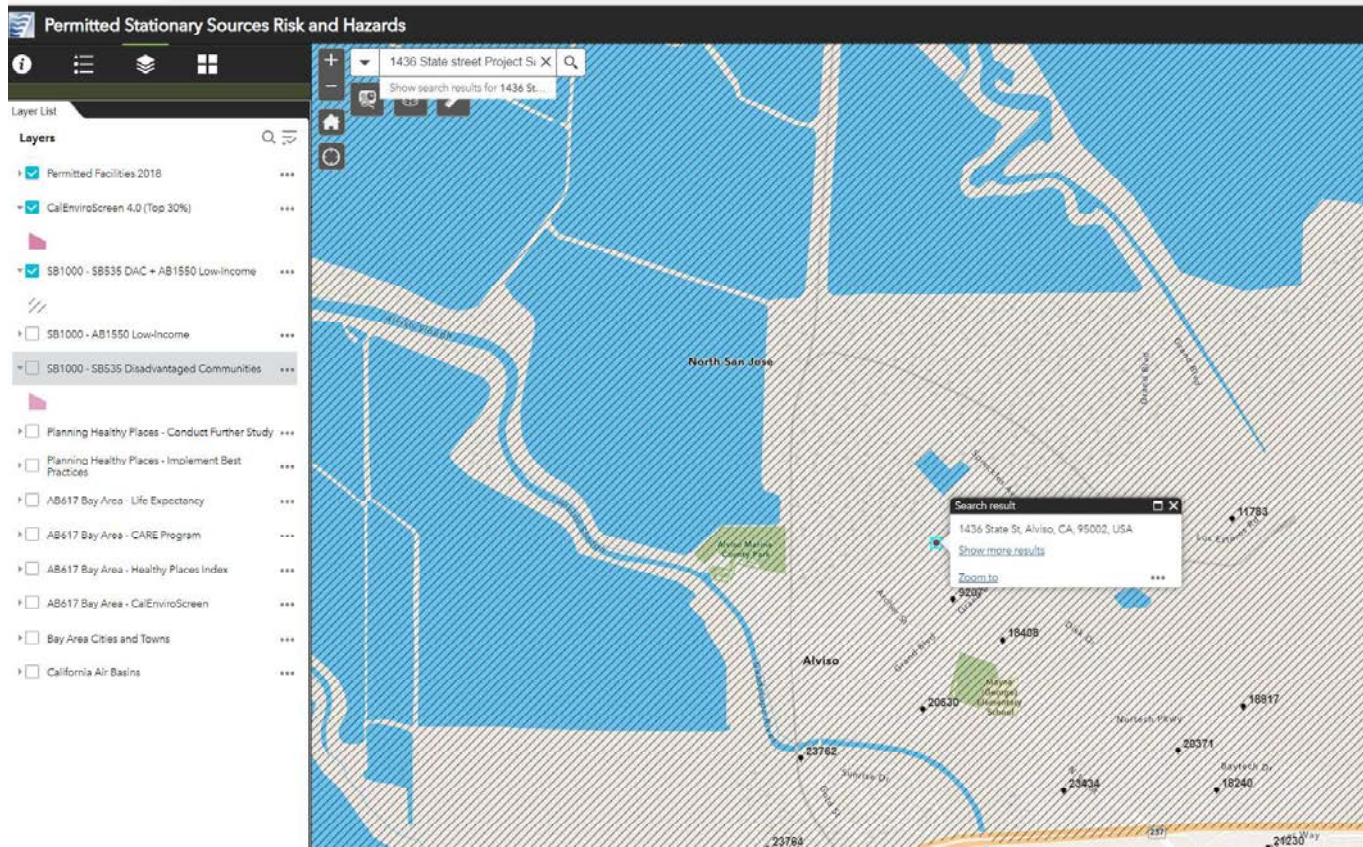
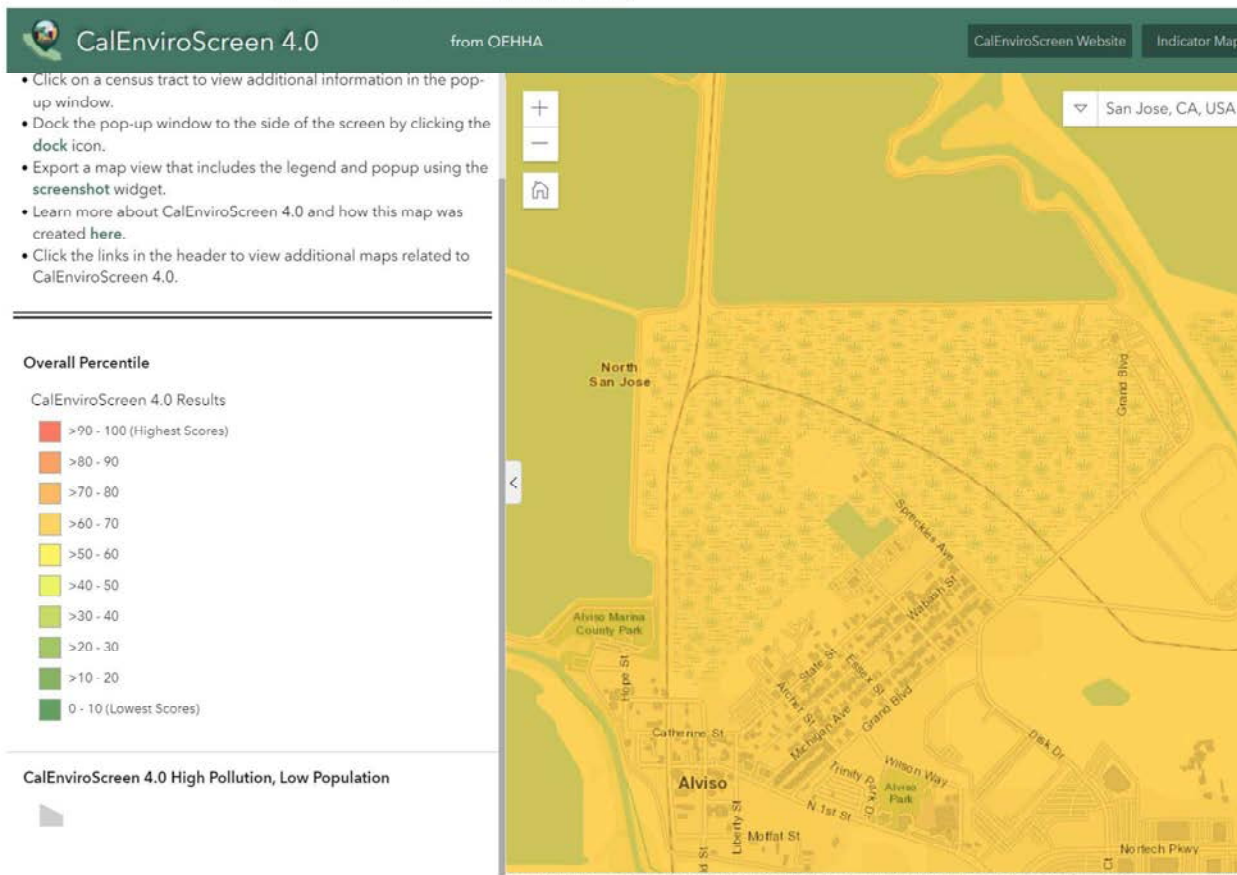


Figure 1: Alviso is designated as SB1000, SB 535 Disadvantaged Community, and AB1550 Low-Income.⁹

⁹ [Permitted Stationary Sources Risk and Hazards \(arcgis.com\)](https://arcgis.com)



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CONT

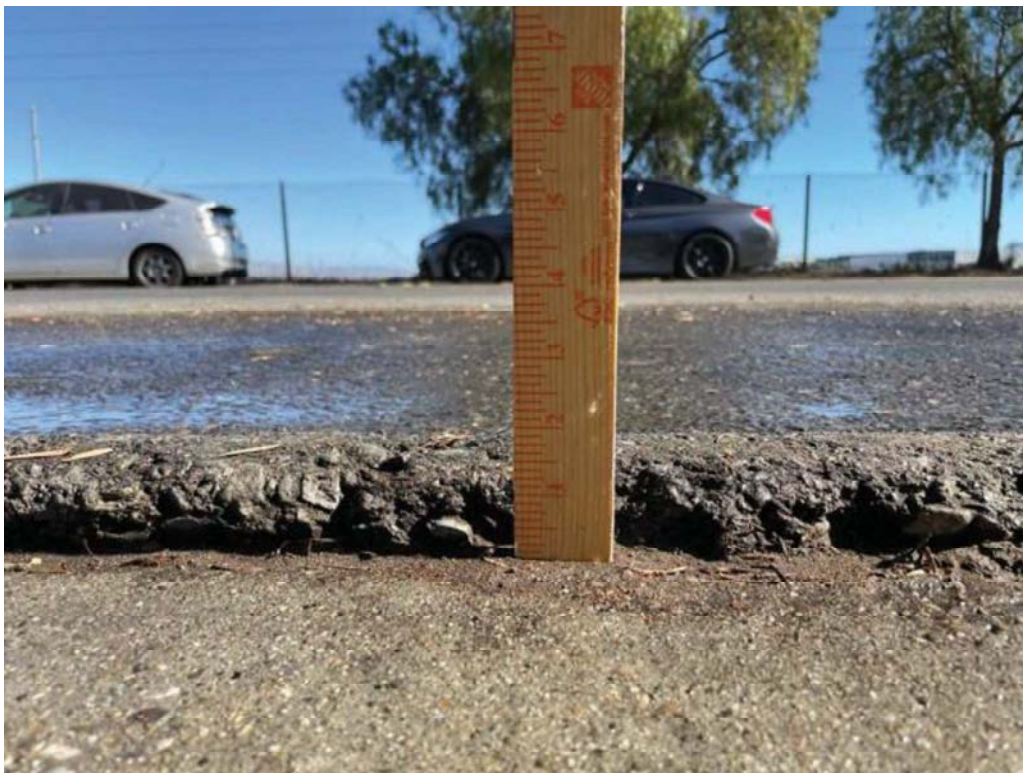
The results for each indicator range from 0-100 and represent the percentile ranking of census tract 6085504602 relative to other census tracts.

Overall Percentiles	
CalEnviroScreen 4.0 Percentile	67
Pollution Burden Percentile	82
Population Characteristics Percentile	50
Exposures	
Ozone	15
Particulate Matter 2.5	19
Diesel Particulate Matter	29
Toxic Releases	30
Traffic	94
Pesticides	0
Drinking Water	39
Lead from Housing	51

Environmental Effects	
Cleanup Sites	99
Groundwater Threats	94
Hazardous Waste	93
Impaired Waters	92
Solid Waste	100
Sensitive Populations	
Asthma	38
Low Birth Weight	99
Cardiovascular Disease	40
Socioeconomic Factors	
Education	73
Linguistic Isolation	N/A
Poverty	28
Unemployment	36
Housing Burden	24

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CONT

Figure 2: Alviso's cumulative pollution burden per CalEPA's screening tool.







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Individuals

Comments below are reprinted verbatim from the appeal letter.

Mark Espinoza (ESPINOZA)

Comment ESPINOZA-1

The community of Alviso is submitting simultaneously the Appeal of Environmental Determination and the Permit Appeal for the 1436 State Street Project Initial Study/Mitigated Negative Declaration (IS/MD). As documented in the IS/MND Technical Appendix A (p. A.1-1) this project proposes:

Note 2. Land uses and sizes are drawn from the site plans for proposed development dated August 7, 2019. Land uses utilized in the emissions model represent the following:

- Parking > Parking Lot > 23 x Space = Proposed parking area. Square footage adjusted to match Applicant provided information dated April 2, 2021.
- Parking > Other Non-Asphalt Surfaces > 0.61 x 1000 sqft = Proposed 605 square feet of new sidewalk.
- Parking > Other Asphalt Surfaces > 4.42 x 1000 sqft = Balance of project site, paved area for equipment storage.
- Recreational > Health Club > 0.64 x 1000 sqft = Proposed 635 square foot employee locker room building.
- Recreational > City Park > 0.09 x acre = Proposed 3,872 square feet of landscaping.
- Industrial > Unrefrigerated Warehouse-No Rail > 3.00 x 1000sqft = Existing warehouse to be repurposed as contractor warehouse and office. Lot acreage was reduced to zero to remove any grading requirements associated with project construction for this area.
- Note 3. Construction activities and equipment list were adjusted to match Applicant-provided information dated April 2, 2021.

This proposed corporation yard/ warehouse project with 5 light duty trucks (10 daily), 9 medium duty trucks (18 daily), 7 heavy duty trucks (14 daily), and 5 personal vehicles (52 daily) trucks will have approximate 94 daily vehicle trips.

Response to ESPINOZA-1

This comment simply lists some of the parameters used in the air quality modeling that was included within the air quality appendix of the IS/MND. This comment does not raise any new issues with respect to the environmental analysis of the IS/MND, it does not identify any significant environmental impacts or issues that would change the IS/MND's analysis or conclusions, or result in new significant impacts or mitigation measures not already disclosed in the IS/MND and associated appendices, nor does it present new information that would require recirculation of the IS/MND. Therefore, no further response is required.

Comment ESPINOZA-2

This attachment includes all previous submissions pertaining to the proposed project. The Final Initial Study/Mitigated Negative Declaration which includes the City of San José's Responses to Written Comments were inadequate.

The IS/MND is vague about what activities will be taking place at the site once construction is complete. The IS/MND repeatedly described the project as "interior improvements of the existing building on the site, repaving and striping the site, rebuilding an existing utility building, a new exterior storage equipment area and the reconfiguration of the gates." This is an inadequate project description. The IS/MND must be revised and recirculated to thoroughly and accurately explain what activities will occur over the project's life time that might affect air quality, noise, greenhouse gas emissions, and any other environmental impact category. [For example: The City did not provide an adequate explanation in their response for the project description, see page 2-39 per CEQA § 15124]

Response to ESPINOZA-2

As previously stated in the formal Responses to Comments to the IS/MND, the IS/MND Section 2.11, Project Description, on page 10 states that the project site would be used as a corporation yard for vehicle parking and equipment storage.¹ Operational impacts would be related to the vehicles and trucks entering and exiting the project site. The air quality, noise, greenhouse gas (GHG) emissions, transportation, and other environmental impacts associated with project operations were thoroughly analyzed in the respective sections of the IS/MND.

The IS/MND, on page 9 (Section 2.11.1 – Site Design), disclosed that the proposed project, "includes improvements to the interior of the existing 3,000-square-foot metal building, construction of a new 635-square-foot utility building, installation of new storage tanks, and repaving of the site. The proposed project would also include the installation of new landscaping along project boundaries and the creation of new parking areas" to accommodate for a corporation yard use. Section 3.1 Air Quality of the IS/MND also reiterated the criteria for the operation of the proposed corporation yard. Relevant discussion from page 42 includes the following: "The corporation yard would be used for vehicle parking and equipment storage. During operation of the proposed project, odors would primarily consist of exhaust from construction equipment and passenger vehicles traveling to and from the site . . . The proposed project would also involve the operation of an asphalt sealant tank, which may also produce odors during operation; however, asphalt sealant tanks are enclosed storage containers and would not constitute the introduction of a new asphalt batch plant."

To further elaborate, the proposed corporation yard would be available for parking of company vehicles, equipment, and light materials (such as new wood, rebar, and various other non-hazardous materials packaged in factory sealed containers.) The corporation yard would be staffed by five employees. The proposed project's vehicle fleet includes five non-commercial half-ton pickup trucks (for miscellaneous support tasks), nine non-commercial

¹ City of San José. 2021. 1436 State Street Project Initial Study/Mitigated Negative Declaration. September 3. Website: <https://www.sanjoseca.gov/home/showpublisheddocument/76770/637661106042970000>. Accessed November 11, 2021.

flatbed trucks (for transport of crew, tools, and materials), and seven heavy commercial vehicles (for transport of equipment and materials). The crew members would arrive at staggered times, as designated by corporation yard staff, and would park their personal vehicles in project's parking area before departing in one of the company vehicles to a job site. Project vehicles would only be parked in the corporation yard to ensure minimal disruption to the neighborhood.

Project vehicles traveling to and from a job site would need to follow a designated site-specific route provided by the operations staff to ensure adherence to all safety, environmental and municipal protocols. Furthermore, as shown in the Truck Restricted Area exhibit in the proposed project's Operations Plan (Exhibit B of this document), to reach State Route (SR) 237 project trucks would only travel on State Street (east of the project site), Spreckles Avenue, and Los Esteros Road. Project trucks would not access any other neighboring roads.

The proposed corporation yard would not operate during night hours. Noise from heavy equipment, commercial vehicles, and other on-site commercial/industrial equipment would only occur between 6:00 a.m. and 6:00 p.m.

For purposes of clarification and amplification, an operation plan from the applicant is also attached to this document (Appendix B of this document). This addition provides clarifying information only and does not represent a change to the proposed project that is analyzed in detail throughout the IS/MND nor does it reflect any change to the analysis or conclusions in the IS/MND. Therefore, this comment does not raise any new issues with respect to the environmental analysis of the IS/MND, significant environmental impacts or issues that would change the IS/MND's analysis or impacts, or result in new significant impacts or mitigation measures other than those already analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND.

Comment ESPINOZA-3

The IS/MND appears to evaluate potential health impacts to local residents from exposure to diesel exhaust emissions during project construction, which will be of short duration, but does not do so for emissions during project operation, which will be long-term. Long-term exposure to diesel exhaust can cause serious health problems, especially in children. This is especially true when there are already significant levels of toxic air pollutant emissions in the area, which is the case for Alviso. The IS/MND needs to consider health risks from adding this project's emissions to existing pollution levels. [For example: The City did not provide substantial evidence and explanation in their response, see page 2-39, for air quality impacts during project operations.]

Response to ESPINOZA-3

As described on page 2-39 of the formal Responses to Comments to the IS/MND, impacts during project operation would not change the extent or nature of health risks resulting from existing air pollution sources in the surrounding area because the project does not propose to alter any of the existing activities or emission sources associated with

surrounding permitted stationary sources or other sources of toxic air contaminants that are otherwise not associated with the proposed project.

The proposed project would not constitute a land use or operational activity contained in Table 1-1 of the California Air Resources Board's (ARB) *Air Quality and Land Use Handbook*,² such as a distribution center that experiences greater than 100 trucks per day or greater than 40 trucks with Transport Refrigeration Units (TRU) per day; therefore, operation of the proposed project would not be expected to result in potentially significant impacts to nearby sensitive receptors. Moreover, as illustrated in the proposed project's Local Transportation Analysis (LTA),³ employee traffic to and from the project site would principally consist of passenger vehicle use, which would result in the operation of predominantly gasoline-fueled vehicles. In addition, the LTA demonstrates that an estimated 52 daily vehicle trips out of the total 94 daily vehicle trips would be generated by personal vehicles, which are assumed to be passenger vehicles. Moreover, as discussed in the LTA, 28 daily vehicles trips would be attributed to heavy-duty trucks, which would be construction contractor vehicles rather than the trucks referred to in the ARB's *Air Quality and Land Use Handbook*, which are typically considered Class 7 (greater than 26,000 pounds) and Class 8 (greater than 33,000 pounds) vehicles. As the project does not propose to use these types of vehicles, nor does the project proposed the use of trucks greater than the volumes expressed in the ARB's advisory recommendations of its *Air Quality and Land Use Handbook*, the proposed project was reasonably assumed to not result in operational diesel particulate matter (DPM) emissions that would exceed the BAAQMD's applicable health risk thresholds.

An operational Health Risk Analysis (HRA) was prepared for the proposed project, in accordance with BAAQMD and State guidance, and is included as Appendix A to this document for informational purposes and to provide further evidence in the administrative record of the adequacy of the analysis and conclusions of the IS/MND. The operational HRA considered emissions from the operational vehicle fleet, including both trucks and passenger vehicles traveling to and from the project site, emissions generated from on-site low-speed vehicle activity, on-site truck and passenger vehicle idling emissions, and building emissions. The land use considered in the HRA is shown in Appendix A.1-1 of this document (California Emissions Estimator Model [CalEEMod] Notes), which demonstrates that the proposed project represents as an "unrefrigerated warehouse with no-rail" and other paved surfaces, such as a parking lot. The proposed project would not include stationary sources of emissions, such as an asphalt or concrete plant. As previously discussed on page 2-43 of the formal Responses to Comments to the IS/MND, the proposed project would not procure, mix, or store asphalt on-site. As discussed in Section 3.1 of the IS/MND and in Response to ESPINOZA-2, the proposed project would not constitute the operation of an asphalt batch plant. As such, the proposed building would most closely resemble a warehouse that is not associated with nearby rail connections or cold storage. The "unrefrigerated warehouse no-rail" land use was selected because it most closely resembles the proposed project's

² California Air Resources Board (ARB). 2005. *Air Quality and Land Use Handbook: A Community Health Perspective*. Website: <https://www.arb.ca.gov/ch/handbook.pdf>. Accessed February 10, 2022.

³ Hexagon Transportation Consultants, Inc. 2021. 1436 State Street Industrial Local Transportation Analysis. August 12.

anticipated uses and is consistent with City-approved project description contained in the IS/MND. Therefore, emissions were quantified, modeled, and the cancer risk and cumulative health risk for the proposed project was identified in accordance with BAAQMD Guidelines.

In the operational HRA, the maximum impacted sensitive receptor was found to be a residence located approximately 65 feet from the project site. This is the same maximum impacted receptor as was identified during the construction HRA. The operational HRA found that at this location, the additional cancer risk impact resulting from project operation would be 0.47 cancer cases per 1 million residents. As the BAAQMD's project-level significance threshold is 10 additional cases per 1 million residents, this presents a less than significant impact. Additionally, as noted in the operational HRA, the cumulative impacts from the combined operation of the proposed project and existing sources of toxic air contaminants in the area—including existing stationary sources, railroads, local roadways, and highways—would result in a cumulative cancer risk of approximately 17 cancer cases per 1 million people. As the BAAQMD's cumulative threshold of significance is 100 cancer risk cases per 1 million people, the cumulative health risk impacts resulting from project operation would be less than significant and would not require any mitigation during project operation. This conclusion is consistent with the IS/MND findings. Please refer to the operational HRA summary and results contained in Appendix A of this document. The operational HRA was prepared solely for clarification purposes and does not include new information that would change the project's impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15073.5.

Comment ESPINOZA-4

The noise assessment simply reports sound measurements taken at the applicant's Fremont facility on 2 days in 2019. There is no indication or explanation to establish that these measurements are in any way representative of what would occur at the Alviso site.

Response to ESPINOZA-4

As stated on page 74 of the IS/MND, consistent with City practice, continuous recordings of sound levels were made at a location on the south side of State Street at the residential property line directly across the street from the site to determine the existing ambient exterior noise. The measurements were made on February 11- 12, 2019, for a continuous period of 24 hours and included measurements during the daytime and nighttime periods of the Day-Night Level (DNL) index during a typical weekday.

Then, as the proposed project is not yet in operation, the analysis modeled the typical noise of a similar use to model the estimated noise increase from operation of the proposed project. As stated on page 2-40 of the Responses to Comments and page 75 of the IS/MND, sound level measurements were taken from the City of Fremont Corporation Yard, because its operation is similar to that of the proposed project as it is a similar size and has the same fleet mix. Thus, the operations at the Fremont facility would be representative of the operations that would occur at the project site. It is therefore appropriate to use the noise

levels taken from the Fremont facility to determine the project-generated short-term noise levels for the evaluations against the City of San José Zoning Ordinance and the long-term noise exposures for the evaluations against the City of San José General Plan Goals and Policies.

This comment does not raise any new issues with respect to significant environmental impacts or issues that would change the proposed project's impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND.

Comment ESPINOZA-5

The City should revise the IS/MND to address the deficiencies described above before it can approve this project.

Response to ESPINOZA-5

As stated in the Responses to Comments, the IS/MND, and the responses in this document, there are no new issues with respect to significant environmental impacts or issues that would change the proposed project's impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND. Therefore, no further response is required.

Comment ESPINOZA-6

I'd like this article to be added to the comment period for the 1436 State street project. I believe the studies have not addressed the cumulative impact associated with this project. There are many other PM sources that are present within a 1,000 feet of the project site but have yet to be considered when the analysis generated their reports. Thereby producing a flawed inaccurate report.

Response to ESPINOZA-6

As stated in the Responses to Comments, Section 3.1 Air Quality of the IS/MND, and the responses in this document, a cumulative HRA was prepared for a corporation yard in accordance with BAAQMD guidance and requirements. As part of this assessment, cancer risk, chronic hazard, and PM_{2.5} concentrations, as available, for all permitted stationary sources within 1,000 feet of the project site and roadways, railroads, and freeways within and beyond 1,000 feet of the project site were identified. Project operation would not change the extent or nature of these existing health risks because the project does not propose to alter any of those existing activities or emission sources. The IS/MND disclosed that on-site toxic air contaminant (TACs) during project operation would consist of DPM emissions from the operation and movement of construction equipment and vehicles; however, the operation of construction equipment and vehicles would be limited to the transport of the equipment and vehicles to and from construction sites elsewhere. Equipment and vehicles operated by the proposed project would not operate on-site for any extended period of time.

Also refer to Response to ESPINOZA-3 above for discussion of the project's operational HRA analysis and cumulative health risk. The comment does not provide new information that would change the project's impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant to CEQA Guidelines Section 15073.5.

Comment ESPINOZA-7

I'd like to submit the attached photographs to illustrate the current damaged street @[redacted] Grand blvd. where I reside. The first photograph is of a nondamaged roadway located @1235 Wabash Street. As evident there is no damage to the asphalt. Whereas the following photographs located @1592 Grand Blvd we can see the entire section of roadway distressed due to traffic loading. Which means heavy loaded truck traffic.

Your applicant wishes to have this damage continue with the added truck traffic in his proposed project. Why has this not been included in the studies provided. I would request for this project to complete an EIR because there are more impacts found that have not been discussed, studies, and or evaluated.

I can already identify disparities given we are a low income community a community of minorities.

Response to ESPINOZA-7

As stated on page 2-35 of the Responses to Comments,

this comment is related to the existing roadway pavement conditions immediately around the project site and ranging from 0.22 to 0.26 mile away. The commenter indicates that roadway distress is due to traffic loading, which is correlated with loaded truck traffic. The commenter assessed that additional analysis such as an EIR [is required] for these impacts that are not mentioned in the IS/MND.

The connection between the roadway conditions is shown in the pictures provided, but no further evidence is provided to show that this is solely due to loaded truck traffic or how the proposed project would further exacerbate the conditions. The proposed project was reviewed by the Public Works Department and the proposed project is required to improve existing site frontage on State Street as it has a direct connection to the proposed project, including sidewalk and driveways. Separately, the City has a pavement maintenance program⁴ to repave every mile of local and neighborhood streets within the City by 2028. As shown in the Pavement Maintenance Plan 2014-2023 interactive map,⁵ the streets in the vicinity of the project site such as Archer Street, Essex Street, Pacific Avenue, Wabash Street, and Michigan Avenue would be repaved in year 2023. Furthermore, to access SR-237, project trucks would only travel on State Street east of the project site, Spreckles Avenue (pavement maintenance scheduled for 2022), and Los Esteros Road (recently repaved in

⁴ City of San José. 2021. Pavement Maintenance Program. Website: <https://www.sanjoseca.gov/yourgovernment/departments/transportation/roads/pavement>. Accessed October 11, 2021.

⁵ City of San José. 2021. Pavement Maintenance Plan 2014-2023. Website: <https://gis.sanjoseca.gov/maps/paveprojects/>. Accessed October 11, 2021.

2021). Project trucks would not access any other neighboring roads and would not contribute to pavement deterioration of these neighboring streets. The comment does not provide new information that would change the proposed project's impact, require additional analysis, or result in new significant impacts or mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND pursuant to CEQA Guideline Section 15073.5.

Comment ESPINOZA-8

My name is Marcos Espinoza and I am a resident of Alviso Ca. I'm am opposed to the proposed project at the site of 1436 State Street Alviso Ca 95002. I oppose this project due to many reasons. The first being the environmental impact this will cause to Alviso residents. Allowing diesel trucks to operate within a small community impacts the health and well-being of the community.

There are multiple student bus stops close to this site and this will affect the kids who use the bus service. Also the site will operate as an asphalt company. Asphalt produces toxic air with is known to be carcinogenic. To allow an asphalt company to operate literally in front of people houses is wrong. There are many other businesses that operate on state street that are illegal and any study that may be done does not take into account the overall impact of all of those businesses plus the new proposed project.

Response to ESPINOZA-8

As discussed in Section 3.1, Air Quality, of the IS/MND and page 2-43 of the Responses to Comments, a cumulative HRA was prepared in accordance with BAAQMD guidance and requirements. As part of this assessment, cancer risk, chronic hazard, and PM_{2.5} concentrations, as available, for all permitted stationary sources within 1,000 feet of the project site and roadways, railroads, and freeways within and beyond 1,000 feet of the project site were identified.

Moreover, the proposed project would not constitute the operation of an asphalt company. Refer to Response to ESPINOZA-2 above for further clarification on the project description without changes to the analysis. Refer to Response to ESPINOZA-3 and ESPINOZA-6 for more information and additional analysis on health and operations.

This comment does not raise any new issues with respect to significant environmental impacts or issues that would change the project's impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND. Therefore, no further response is required.

Comment ESPINOZA-9

Currently the community of Alviso has at least a dozen construction type of land-uses. This proposed corporation yard/ warehouse project with 5 light duty trucks (10 daily), 9 medium duty trucks (18 daily), 7 heavy duty trucks (14 daily), and 5 personal vehicles (52 daily) trucks will have approximate 94 daily vehicle trips. Although this project incrementally is less than significant with mitigation

incorporated, the small community of Alviso is cumulatively and disproportionately burdened with environmental impacts.

Response to ESPINOZA-9

As described in the analysis under Impact 3.1.1 of the IS/MND, the proposed project's estimated trip generation was incorporated into the operational air quality emissions modeling. The City may utilize standards adopted by regulatory agencies for the protection of the environment to establish thresholds of significance. See *Citizens for Responsible Equitable Env't'l Dev. v City of Chula Vista* (2011) 197 CA4th 327, 332. See also *Mission Bay Alliance v Office of Community Inv. & Infrastructure* (2016) 6 CA5th 160, 205; *Tracy First v City of Tracy* (2009) 177 CA4th 912; *Cadiz Land Co. v Rail Cycle* (2000) 83 CA4th 74. Accordingly, as discussed in further detail in Response to ESPINOZA-10, the City is utilizing the thresholds of significance established by BAAQMD to gauge the environmental impact of the proposed project. As shown in Table 5 and Table 6 of the IS/MND, the proposed project would not result in operational-related air pollutants or precursors that would exceed the thresholds of significance, indicating that ongoing project operations would not be considered to have the potential to generate a significant quantity of air pollutants or contribute to a cumulatively significant impact; therefore, project operations would not have a cumulatively considerable contribution to air quality impacts under the City's CEQA threshold.

Moreover, the IS/MND's analysis is consistent with City of San José General Plan Policies MS-10.1 and -10.2, which require new development projects to conform to BAAQMD Guidelines and consider cumulative impacts consistent with the Clean Air Plan and State Law. The BAAQMD and the Clean Air Plan are designed to prevent significant cumulative air quality impacts by setting thresholds for the maximum emissions a new development project could emit without endangering human health.

This comment does not provide any new information or raise any new issues with respect to significant environmental impacts or issues that would change the project's impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices that would require recirculation of the IS/MND.

Comment ESPINOZA-10

Cumulative Air Quality Impacts for Sensitive Receptors and MANDATORY FINDINGS OF SIGNIFICANCE

As you know, the BAAQMD is in the process of updating their CEQA thresholds.

- o) The BAAQMD thresholds have not been updated since 2010. The 2017 version solely reflects the California Supreme Court's 2015 opinion in *Cal. Bldg. Indus. Ass'n vs. Bay Area Air Quality Mgmt Dist.*, 62 Cal. 4th 369. Per BAAQMD's website: "The Guidelines for implementation of the thresholds are for information purposes only to assist local agencies. Recommendations in the Guidelines are advisory and should be followed by local governments at their own discretion. These Guidelines may inform environmental review for development projects in

the Bay Area, but do not commit local governments or the Air District to any specific course of regulatory action.¹² On page 2-39 of the State Street IS/MND CEQA Comments and Responses: “Furthermore, the BAAQMD was notified of the circulation of the Draft Initial Study and did not provide comments.” The absence of a comment letter from BAAQMD does not provide substantial evidence that this project will not have any significant impacts.

Response to ESPINOZA-10

The commenter is correct that the absence of a comment letter from the BAAQMD does not provide substantial evidence that the project will not have any significant impacts. When adopting or using thresholds of significance, CEQA Guidelines Section 15064.7 specifically states that the lead agency “may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts.” Consistent with Guideline Section 15064.7, San José General Plan Policies MS-10.1 and -10.2 adopted the BAAQMD Guidelines and require new development projects to abide by those thresholds set by the BAAQMD. The BAAQMD thresholds are established based on substantial evidence compiled by the Air District. Moreover, the IS/MND follows the recommended methodologies provided by the BAAQMD in their Guidelines and demonstrates less than significant impacts with respect to project emissions compared against the applicable significance thresholds. The BAAQMD Guidelines and thresholds were used to measure project impacts because the BAAQMD prepared the CEQA Guidelines to assist lead agencies in air quality analysis, as well as to promote sustainable development in the region. The BAAQMD’s CEQA Air Quality Guidelines support lead agencies in analyzing air quality impacts and offers numerous mitigation measures and general plan policies to implement smart growth and transit-oriented development, minimize construction emissions, and reduce population exposure to air pollution risks.⁶ Therefore, the BAAQMD Guidelines are appropriate to utilize in analyzing project impacts and are not outdated.

This comment does not raise any new issues with respect to significant environmental impacts or issues that would change the project’s impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND.

Comment ESPINOZA-11

The 1436 State Street Project IS/MND did not adequately disclose that Alviso is designated as SB1000, SB 535 Disadvantaged Community, and AB1550 Low-Income (Figure 1). In addition, Alviso narrowly missed the CalEPA’s top 30% percentile vulnerability rank of cumulative impacts via the CalEnviroScreen 4.0 screening tool (Figure 2). The Alviso residents are disproportionately affected by contamination, air pollution, and many cumulative environmental issues: the former South Bay Asbestos Area on the National Priority List (NPL), the Union Pacific Railroad, Highway 237, methane vapor from the Newby Island Landfill and Zanker Recycling Zero Waste Energy, the Calpine Energy Plant, facilities with hazardous wastes, large Google warehouses, the (Approved Development)

⁶ Bay Area Air Quality Management District (BAAQMD). May 2017. Air Quality CEQA Guidelines. Website: https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed February 10, 2022.

Microsoft San Jose Data Center, the RWF Cogeneration Project for the San Jose/Santa Clara Water Pollution Control Plant (WPCP), and numerous unpermitted business with diesel trucks, Topgolf Entertainment Center traffic impacts, and other proposed projects.

Response to ESPINOZA-11

The commenter states that the Alviso community is designated as a disadvantaged community and the residents are disproportionately affected by existing contamination, air pollution, and other environmental issues. While the community may experience an existing pollution burden, the community is not identified as part of an area which has different significance thresholds from those recommended by the BAAQMD or by the City. Moreover, as discussed in Response to ESPINOZA-3, an operational HRA was prepared for the proposed project, in accordance with BAAQMD and State guidance, and is attached to this document for informational purposes. The operational HRA demonstrated that the maximum impacted sensitive receptor was found to be a residence located approximately 65 feet from the project site, the same maximum impacted receptor as that identified during the construction HRA. The operational HRA found that at this location, the additional cancer risk impact resulting from project operation would be 0.47 cancer cases per 1 million residents. As the BAAQMD's project-level significance threshold is 10 additional cases per 1 million residents, this presents a less than significant impact. The operational HRA also demonstrated that cumulative impacts from the combined operation of the proposed project and existing sources of toxic air contaminants in the area would result in a cumulative cancer risk of approximately 17 cancer cases per 1 million people. As the BAAQMD's cumulative threshold of significance is 100 cancer risk cases per 1 million people, the cumulative health risk impacts resulting from project operation would be less than significant and would not require any mitigation during project operation. Please refer to the operational HRA summary and results contained in Appendix A of this document.

It was acknowledged in the IS/MND that the project site, and the majority of the Alviso community, is located with the South Bay Asbestos Area NPL Superfund site. In addition, as stated in Section 3.4 of the IS/MND, the 550-acre South Bay Asbestos Area consisted of three landfills that received asbestos wastes from an asbestos cement pipe manufacturing plant from 1953 to 1982. The site also included a levee around Alviso that contained asbestos-contaminated material.

Removal of the asbestos-contaminated ring levee took place in 1993. Furthermore, following cleanup, operation and maintenance activities and monitoring are ongoing. The United States Environmental Protection Agency (EPA) has conducted several 5-year reviews of the site's remedy. These reviews ensure that the remedies put in place protect public health and the environment, and function as intended by site decision documents. The most recent review concluded that response actions at the site are in accordance with the remedy selected by the EPA and that the remedy continues to be protective of human health and the environment in the short-term. Continued protectiveness of the remedy requires implementation of institutional controls and updating the remedy to replace deed restriction requirements with the California State Water Resources Control Board (State Water Board) and State regulations.

Asbestos was not detected in any of the five soil samples collected in the limited soil sampling conducted for the proposed project, therefore the proposed project would not have the potential to disturb asbestos during construction. In addition, the proposed project would comply with applicable federal, State, and local laws pertaining to the safe handling and transport of hazardous materials. The project does not propose commercial or industrial uses, such as gas stations or dry cleaners, that typically use or transport significant amounts of hazardous materials.

Furthermore, to prevent any contamination impacts to workers and nearby residences, the proposed project would implement mitigation measure HAZ-1, which requires a qualified environmental professional to develop, and the project to implement, a Site Management Plan that addresses the site history due to the historical presence of a machine shop and metal recycling facility on the project site. The Site Management Plan would address any potential contamination that could be discovered during the course of grading/development and would require procedures to prevent any impacts associated with the release of hazardous materials.

Therefore, although the proposed project is located within a disadvantaged community, the proposed project, based on the analyses and conclusions in the IS/MND, would not contribute to cumulative air quality, hazards and hazardous materials, or other environmental impacts. This comment does not raise any new issues with respect to significant environmental impacts or issues that would change the proposed project's impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND.

Comment ESPINOZA-12

With this evidence, an additional project condition should require a monitoring report that the truck traffic for the State Street Project does not use residential streets and do not exceed their daily vehicle trips. In addition, this project must implement per the California Attorney General's Bureau of Environmental Justice (Bureau) "*Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act*".

[The CEQA 2021 Statutes and Guidelines does not preclude the Lead Agency from requiring conditions to the proposed project or additional mitigation measures not included in the BAAQMD CEQA 2017 Air Quality Guidelines. As noted above, the thresholds and guidelines are the same from 2010. For example, the 2017 BAAQMD Guidelines includes URBEMIS and not CalEEMod for analysis and mitigation measures. Yet, the City of San Jose allows for CalEEMod analysis and the mitigation measures in this software.]

Response to ESPINOZA-12

Consultation with the BAAQMD in October 2021 confirmed that the use of CalEEMod Version 2020.4.0 is the correct software to use for the impact analysis.⁷ As described in Responses to ESPINOZA-10 and -11, the IS/MND determined that mitigation such as the type

⁷ Bay Area Air Quality Management District (BAAQMD). Josephine Fong. October 28, 2021. Personal Communication: email.

the commenter is suggesting is not required, because the proposed project would not result in project-level or cumulatively significant operational impacts. The proposed project would not be considered a “warehouse project” as the commenter is suggesting based on the source provided: the California Attorney General’s Bureau of Environmental Justice (Bureau) “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act” because the proposed project would not support e-commerce activity. As described in Section 3.6, Transportation, of the IS/MND, the proposed project truck trips would only access the project site during the morning and after work hours have completed and would not be continually accessing the site on an hourly basis.

Furthermore, to access SR-237, project trucks would only travel on State Street east of the project site, Spreckles Avenue, and Los Esteros Road. Project trucks would not access any other neighboring roads.

This comment does not raise any new issues with respect to significant environmental impacts or issues that would change the proposed project’s impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND.

Comment ESPINOZA-13

Land-Use

Although the proposed project’s zoning is consistent with the Alviso Master Plan and the General Plan, it does not environmentally reflect the significant changes and amendments to the General Plan over many years. Since the adoption of the General Plan in 2011, significant legislative laws have been approved such as SB 1000. As a City of San Jose resident, I hope City leaders and the Manager’s Office of Racial Equity will soon implement SB 1000. Ethically, the City has an obligation to consider the disproportionate impacts to the Alviso residents.

Response to ESPINOZA-13

As acknowledged by the commenter, the proposed project is consistent with the Alviso Master Plan and the City’s General Plan and is therefore consistent with the City’s overall vision for development of the site. Future projects will be required to comply with the land use regulations, policies, and objectives set forth in the General Plan in effect at the time any project applications are submitted. The proposed project was evaluated under the current General Plan regulations and Zoning District was found to have less than significant environmental impacts and would not have cumulatively considerable impacts on the environment or surrounding residences. This comment does not raise any new issues with respect to significant environmental impacts or issues that would change the proposed project’s impact, require additional analysis, or result in new significant impacts or mitigation measures other than those analyzed and disclosed in the IS/MND and associated appendices, or present new information that would require recirculation of the IS/MND.

Comment ESPINOZA-14

Figure 1: Alviso is designated as SB 1000, SB 535 Disadvantaged Community, and AB 1550 Low-Income.

Figure 2: Alviso cumulative pollution burden per CalEPA's screening tool.

Both figures were referenced in Comment ESPINOZA-11.

Response to ESPINOZA-14

These figures were provided by the commenter as supporting information for Comment ESPINOZA-11. According to these figures, the Alviso community is designated as a Senate Bill (SB) 1000, SB 535 Disadvantaged Community, and Assembly Bill (AB) 1550 Low-Income community. The Alviso community is also located within the >60-70 percentile in terms of pollution based on environmental, health, and socioeconomic data in CalEnviroScreen 4.0 mapping tool. For responses to these figures and claims provided in Comment ESPINOZA-11, see Response to ESPINOZA-11.

Appendix A: **Operational Health Risk Assessment**

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Appendix A: Operational Health Risk Assessment

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Pacific Surfacing Project

Air Dispersion Modeling and Health Risk Assessment Methodology and Results

Model Assumptions and Methodology

The BAAQMD has developed a set of guidelines¹ that recommends using the American Meteorological Society and Environmental Protection Agency Regulatory Model (AERMOD) air dispersion model to estimate emission concentrations for use in identifying the cancer risk and hazard index associated with sensitive receptor exposure to project operation emissions. The following modeling parameters were employed using AERMOD, Version 21112, to estimate DPM and PM_{2.5} exhaust emission concentrations that were used in the associated cancer risk and hazard calculations.

AERMOD Modeling Parameters

1. Sensitive receptors (e.g., schools, daycare facilities, hospitals, care facilities, residences) that are located in the project vicinity are represented in the model with discrete cartesian receptors. The closest sensitive receptor to the project site is a single-family residence, approximately 65 feet southeast of the project site. A nested cartesian grid was also placed in AERMOD with the following spacing parameters:
 - 20 meters spacing from the project site boundaries to 200 meters from the project site;
 - 50 meters spacing between 200 and 500 meters from the project site; and
 - 250 meters spacing to between 500 and 2,000 meters from the project site.
2. AERMOD's non-default regulatory dispersion option was selected. Among the dispersion control options available, the Fast All Sources option was selected.
3. The Urban dispersion coefficient was used as greater than 50 percent of the surrounding three kilometers is developed.
4. The UTM coordinates used to initially locate the project site are 10 S, 585,703 meters easting and 4,134,320 meters northing.
5. Operation emissions were represented in the model using two separate area sources. For the emissions occurring from on-site operation activities, one polygon area source was placed across the entire project site. For off-site vehicle operation, one line area source was placed on State Street within 1,000 feet northeast of the project site, consistent with the Local Transportation Analysis prepared for the project. Off-site emissions were adjusted to only account for off-site emissions that would occur within 1,000 feet of the project site (see Off-Site PM_{2.5} Exhaust Adjustment Sheet of this Appendix).
6. Variable emission factors were selected to represent the expected hours of operational activities for the project. Project operation was assumed to occur 8 hours per day, 7 days per week, 365 days per year. A variable emission factor of 3.0 was applied to on-site building emissions during the 8 hours of daily operation to compress all 24 hours of emission generation into the operational schedule of 8 hours per day (3.0 = 24/8 hours). In addition, on-site mobile emissions were estimated to identify on-site vehicle exhaust and idle emissions from workers frequenting

¹ Bay Area Air Quality Management District (BAAQMD). 2020. BAAQMD Health Risk Assessment Modeling Protocol. December. Website: https://www.baaqmd.gov/~media/files/ab617-community-health/facility-risk-reduction/documents/baaqmd_hra_modeling_protocol_august_2020-pdf.pdf?la=en. Accessed April 13, 2021.

the project site twice a day, for 30 minutes each occurrence. Mobile emission factors for average daily idle emissions and vehicle exhaust emissions at 5 miles per hour for the specific vehicle classifications utilized in the operational emissions modeling were retrieved from the EMFAC2017 database. Because the emission estimates utilizing EMFAC2017 demonstrate one hour worth of emission generation, accounting for 30 minutes in the morning and 30 minutes in the evening, a variable emission factor of 0.5 was applied to the 0800 hour bin and 1600 hour bin each (0.5 = 1/2 occurrences). Please refer to the Project Operational Emissions calculation sheet contained in the Appendix for more information.

7. Meteorological data from the Moffett Federal Airfield Air Monitoring Station, Station ID 23244. This station was selected as it is the closest monitoring station to the project site, and it resembles physical site characteristics and elevation generally representative of the project site. The Moffett Federal Airfield Air Monitoring Station provides preprocessed meteorological data covering the years 2009-2014. The model used all years of available meteorological data.

Cancer Risk Calculations

The BAAQMD has developed a set of guidelines for estimating cancer risks resulting from exposure to toxic air contaminants (TAC).^{2,3} These guidelines require the use of Hotspots Analysis and Reporting Program (HARP2) software to identify the cancer risk associated with DPM generated during operation activities. The HARP2 risk scenario inputs used to calculate cancer risk during project operation are as follows:

1. The analysis type used in HARP2 was "Cancer Risk."
2. The receptor type used in HARP2 was "Individual Resident."
3. The Exposure Duration used in HARP2 was "User Defined (Tier 2)." A 30-year horizon with a start age of 3rd Trimester was selected for this input.
4. The Intake Rate Percentile used in HARP2 was "Risk Management Policy (RMP) - *Inhalation Only*."
5. The "Apply Molecular Weight Adjustment Factor" factor was selected.
6. Inhalation only was the pathway selected for evaluation in HARP2.
7. The fraction of time at residence factor was selected for age bins greater than or equal to 16 years and age bins less than 16 years on the Inhalation scenario tab in HARP2.
8. The Tier 2 breathing rates and the Tier 2 fraction of time at residence factors were selected on the Inhalation scenario tab in HARP2.

Estimation of Non-Cancer Chronic Hazards

An evaluation of the potential non-cancer effects of chronic chemical exposures was also conducted. Adverse health effects are evaluated by comparing the annual receptor concentration of each chemical compound with the appropriate reference exposure limit. Available reference exposure limits

² Bay Area Air Quality Management District (BAAQMD). 2016. BAAQMD Air Toxics NSR Program Health Risk Assessment Guidelines. December. Website: https://www.baaqmd.gov/~media/files/planning-and-research/permit-modeling/hra_guidelines_12_7_2016_clean-pdf.pdf?la=en. Accessed April 13, 2021.

³ Bay Area Air Quality Management District (BAAQMD). 2020. BAAQMD Health Risk Assessment Modeling Protocol. August. Website: https://www.baaqmd.gov/~media/files/ab617-community-health/facility-risk-reduction/documents/baaqmd_hra_modeling_protocol_august_2020-pdf.pdf?la=en. Accessed April 13, 2021.

promulgated by the California Office of Environmental Health Hazard Assessment (OEHHA) were considered in the assessment.

Risk characterization for non-cancer health hazards from toxic air contaminants (TAC) is expressed as a Hazard Index. The Hazard Index is a ratio of the predicted concentration of the project's emissions to a concentration considered acceptable to public health professionals, termed the reference exposure limit. The Hazard Index assumes that chronic sub-threshold exposures adversely affect a specific organ or organ system (toxicological endpoint). For each discrete chemical exposure, target organs presented in regulatory guidance were used. To calculate the Hazard Index, each chemical concentration or dose is divided by the appropriate toxicity reference exposure level. For compounds affecting the same toxicological endpoint, this ratio is summed. Where the total equals or exceeds 1, a health hazard is presumed to exist. For purposes of this assessment, the TAC of concern is DPM for which the OEHHA has defined a reference exposure limit for DPM of 5 µg/m³. The principal toxicological endpoint assumed in this assessment was through inhalation.

Estimation of Diesel Particulate Matter

Operational Diesel Particulate Matter (DPM) emissions—represented as PM_{2.5} exhaust—were estimated using CalEEMod, Version 2020.4.0. Operation of the project is expected to begin in 2022. Operational emissions for the project were assumed to be distributed over the project area, resulting primarily from on-site mobile emissions. Table 1 displays the DPM emission rates experienced both on-site and off-site during project operation.

Table 1: Project DPM Operational Emissions

Scenario	On-site DPM—Area (tons/year)	Off-site DPM—Road Segments (tons/year) ¹	Total Local DPM Emissions (tons/year)
Project Operational DPM	<0.01	<0.01	<0.01
¹ The off-site emissions are adjusted to represent operational vehicle travel routes from within approximately 1,000 feet of the project site. Off-site emissions shown here reflect the 1,000-foot adjustment. ² Emissions herein do not reflect the application of any operational mitigation measures. Source: CalEEMod Output and Operational Health Risk Assessment Calculations; see Appendix A.			

To assess potential health risk impacts to off-site sensitive receptors, the AERMOD air dispersion model was used to estimate the DPM emission concentrations at nearby sensitive receptors within approximately 1,000 feet of the project site.

Estimation of Diesel Particulate Matter

Table 2 summarizes the cancer risk and hazard index results for the residential MIR. The residential MIR represents a single-family residence approximately 65 feet southeast of the project site. It should be noted that cancer risk and chronic non-cancer hazards shown in Table 2 do not account for the implementation of any operational mitigation.

Table 2: Estimated Cancer Risks and Chronic Non-Cancer Hazards (Proposed Project)

Impact Scenario	Cancer Risk ¹ (risk per million)	Chronic Non-Cancer Hazard Index ²	TAC Concentration ³ (µg/m ³)
Residential MIR Impact			
Project Operation (30-Year Exposure)	0.47	<0.01	<0.01
Thresholds of Significance	10	1	0.3
Exceeds Individual Source Threshold?	No	No	No
<p>Notes:</p> <p>¹ Cancer risk is identified by multiplying the risk sum from HARP2 by 1,000,000.</p> <p>² Chronic non-cancer hazard index was estimated by dividing the annual DPM concentration (as PM_{2.5} exhaust) by the DPM reference exposure level of 5 µg/m³.</p> <p>³ TAC concentration taken from AERMOD is always at the MIR identified from the project air dispersion models. The residential MIR was located at 37.43031°N -121.96987°E.</p> <p>REL = reference exposure level</p> <p>MIR = maximally impacted sensitive receptor</p> <p>µg/m³ = micrograms per cubic meter</p> <p>Emissions Source: Appendix A.</p> <p>Thresholds Source: Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines. May. Website: https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed April 15, 2021.</p>			

As shown in Table 2, implementation of the project would emit DPM emissions that would result in TAC concentrations below the BAAQMD's recommended cancer risk threshold. As demonstrated therein, DPM emissions generated during operation of the proposed project would not result in an exceedance of BAAQMD cancer risk thresholds at the MIRs.

Cumulative Health Risk Assessment

The BAAQMD recommends assessing the potential cumulative impacts from sources of TACs within 1,000 feet of a project. For a project-level analysis, BAAQMD provides several tools for use in screening potential sources of TACs. The BAAQMD-provided tools used to assess the potential cumulative impacts from TACs are described below:

- **Health Risks for Local Roadways.** The BAAQMD pre-calculated concentrations and the associated potential cancer risks and PM_{2.5} concentration increases for each county within their jurisdiction for roadways that carry at least 30,000 average daily trips. For certain areas, the BAAQMD also includes local roadways that meet BAAQMD's "major roadway" criteria of 10,000 vehicles or 1,000 trucks per day. The latest available screening tool is in the form of a Geographic Information System (GIS) raster file.
- **Freeway Screening Analysis Tool.** The BAAQMD prepared a GIS tool that contains pre-estimated cancer risk and PM_{2.5} concentration increases for highways within the Bay Area.

- **Stationary Source Risk and Hazard Screening Tools.** The BAAQMD prepared a web-based tool⁴ with the location of permitted stationary sources. For each emissions source, the BAAQMD provides conservative estimates of cancer risk and PM_{2.5} concentrations. Based on information from the web-based tool, one BAAQMD-permitted stationary source exists within 1,000 feet of the project site.
- **Rail Screening Tools.** The BAAQMD prepared GIS tools that contains estimated cancer risks and PM_{2.5} concentrations from railroad operations at any point within the Air Basin.

A cumulative Health Risk Assessment (HRA) was performed that examined the cumulative impacts of the project's emissions and existing sources of TAC emissions principally within 1,000 feet of the project site.

The cumulative health risk results, including health risks from the existing stationary source, are summarized during project operation in Table 3. Cumulative health risk results shown therein are representative of the health risks to the residential MIR, which would experience the highest concentration of pollutants.

Table 3: Summary of the Cumulative Health Impacts at the MIR during Operation

Source/Impact Scenario	Source Type	Distance from MIR ¹ (feet)	Cancer Risk (per million)	Chronic HI	PM _{2.5} Concentration (µg/m ³)
Project MIRs					
Project Operation	Truck Fleet, Building Emissions, and Passenger Vehicles	65	0.47	<0.01	<0.01
Existing Stationary Sources (BAAQMD Facility Number)²					
Facility ID 9207: Rebar Spacer Block Company	Unknown	180	6.78	<0.01	0.00
Roadways					
Existing Local Roadway Network		-	1.09	ND	0.02
Rail					
Existing Rail Lines (Amtrak/Unknown Ownership)		1,670	3.84	ND	<0.01
Freeways					
Existing Freeways (Highway 237)		4,165	5.24	ND	0.11
Cumulative Health Risks					
Cumulative Maximum with Project DPM Emissions			17.42	<0.01	0.15
BAAQMD's Cumulative Thresholds of Significance			100	10	0.8
Threshold Exceedance?			No	No	No
Notes:					

⁴ Bay Area Air Quality Management District (BAAQMD). 2018. Permitted Stationary Sources Risk and Hazards. Permitted Stationary Sources Risk and Hazards. Website: <https://baaqmd.maps.arcgis.com/apps/webappviewer/index.html?id=2387ae674013413f987b1071715daa65>. Accessed April 16, 2021.

Source/Impact Scenario	Source Type	Distance from MIR ¹ (feet)	Cancer Risk (per million)	Chronic HI	PM _{2.5} Concentration (µg/m ³)
¹ The maximum impacted sensitive receptor (MIR) above represents the residential MIR approximately 65 feet southeast of the project site. ² Assumes emissions remain constant with time. ND = no data available Source: Appendix A.					

As noted in Table 3, the cumulative impacts from implementation of the proposed project and existing sources of TACs would be less than the BAAQMD's cumulative thresholds of significance. Thus, the cumulative health risk impacts from project operation would be less than significant.

Project Operational Emissions

Annual Operational Emissions (tons/year)

Emission Source	PM _{2.5} Exhaust (Tons)
Area (Onsite)	0.000000000
Energy (Onsite)	0.000100000
Mobile (Onsite)	0.000000003
Total Onsite	0.000100003
Mobile (Offsite)	0.001980000
Total Offsite	0.001980000

Note: Please refer to On-Site Mobile Source Emission Calculations Sheet contained in this Appendix.

Mitigation Applied
None

Mitigation Description

File Name: Pacific Surfacing Operation Only - Santa Clara County, Annual
Timestamp: Date: 4/10/2021 9:59 AM

Off-Site AERMOD Input Adjustments

Roadway Segment	Length (Miles)	Proportion of Total	PM _{2.5} (Exhaust) Emission Rate (g/sec)
State Street	0.2	100.00%	1.326E-06
Totals	0.2	100.00%	1.326E-06

Notes:

¹ Conversion factor of 453.592 grams/pound was used to convert daily emissions expressed in pounds to daily emissions expressed in grams.

² Off-site emissions used in the AERMOD air dispersion model were reduced to account for the proportion of emissions occurring within 1,000 feet of the project site

Off-Site Roadway Activity	Weighted Travel Distances per Trip	Adjusted for 1,000 ft
Passenger Vehicles	7.67 Miles	2.47%
Trucking Fleet	8.60 Miles	2.20%

On-Site Roadway Activity	Weighted Travel Distances per Trip	Adjusted for 0.1 mi
Passenger Vehicles	0.1 Miles	100.00%
Trucking Fleet	0.1 Miles	100.00%

Exhaust PM_{2.5} AERMOD Inputs

Operation Hours	2,920.00	(8 hours/day,
Elapsed Hours	8,760.00	365 workdays)
Variable Factor (Non-Mobile Sources)	3.00	(24/8 Hours)
Variable Factor (Mobile Sources)	0.50	(1/2 Occurrences)
On-Site Emissions (Non-Mobile)	0.20 pounds	
	90.72 grams	
	1.036E-02 grams/hours	
	2.877E-06 grams/sec	
On-Site Emissions (Mobile)	0.00 pounds	
	0.00 grams	
	2.698E-07 grams/hours	
	7.494E-11 grams/sec	
Off-Site Emissions	3.96 pounds	
	1,796.22 grams	
	2.05E-01 grams/hour	
	5.70E-05 grams/sec	

On-Site Mobile Emission Calculations (Trucks and Passenger Vehicles)

Source: EMFAC2017 (v1.0.3) Emissions Inventory

Region Type: County

Region: Santa Clara

Calendar Year: 2022

Season: Annual

Vehicle Classification: EMFAC2007 Categories

Units: miles/day for VMT, trips/day for Trips, g/mile for RUNEX, PMBW and PMTW, g/trip for STREX, HOTSOAK and RUNLOSS, g/vehicle/day for IDLEX, RESTLOSS and DIURN

Region	Calendar Year	Vehicle Category	Model Year	Speed Bin	Fuel	PM2.5_RUNEX	PM2.5_IDLEX	PM2.5_STREX
SANTA CLARA		2022 HHDT	Aggregate	Aggregate	Diesel	-	0.033469986	0
SANTA CLARA		2022 HHDT	Aggregate		5 Diesel	0.056707699	-	-

EMFAC2017 Default Values and Daily Project Values for HHDT Truck Trips			
	Vehicle Miles Traveled (VMT)	Vehicle Population	Vehicle Trips
Project Estimates:	1.40	7	14

PM2.5_RUNEX (grams/mile)	PM2.5_IDLEX (grams/vehicle)	PM2.5_STREX (grams/trip)	PM2.5_RUNEX (grams)	PM2.5_IDLEX (grams)	PM2.5_STREX (grams)
0.056707699	0.033469986	0	0.08	0.23	-

Totals (grams/day):		0.08	0.23	-
---------------------	--	------	------	---

Daily PM _{2.5} Emissions (grams):	0.313680679
Daily PM _{2.5} Emissions (pounds):	0.000691548
Daily PM _{2.5} Emissions (tons):	0.000000346
Annual PM _{2.5} Emissions (tons):	0.000000001

Region	Calendar Year	Vehicle Category	Model Year	Speed Bin	Fuel	PM2.5_RUNEX	PM2.5_IDLEX	PM2.5_STREX								
SANTA CLARA	2022	MHDT	Aggregate	Aggregate	Diesel	-	0.01553751	0								
SANTA CLARA	2022	MHDT	Aggregate		5 Diesel	0.059870467	-	-								
<div>EMFAC2017 Default Values and Daily Project Values for MHDT Truck Trips</div> <table><thead><tr><th></th><th>Vehicle Miles Traveled (VMT)</th><th>Vehicle Population</th><th>Vehicle Trips</th></tr></thead><tbody><tr><td>Project Estimates:</td><td>1.80</td><td>9</td><td>18</td></tr></tbody></table>										Vehicle Miles Traveled (VMT)	Vehicle Population	Vehicle Trips	Project Estimates:	1.80	9	18
	Vehicle Miles Traveled (VMT)	Vehicle Population	Vehicle Trips													
Project Estimates:	1.80	9	18													
		PM2.5_RUNEX (grams/mile)	PM2.5_IDLEX (grams/vehicle)	PM2.5_STREX (grams/trip)	PM2.5_RUNEX (grams)	PM2.5_IDLEX (grams)	PM2.5_STREX (grams)									
		0.059870467	0.01553751	0	0.11	0.14	-									
		Totals (grams/day):			0.11	0.14	-									
					Daily PM _{2.5} Emissions (grams):		0.247604435									
					Daily PM _{2.5} Emissions (pounds):		0.000545875									
					Daily PM _{2.5} Emissions (tons):		0.000000273									
					Annual PM _{2.5} Emissions (tons):		0.000000001									

Region	Calendar Year	Vehicle Category	Model Year	Speed Bin	Fuel	PM2.5_RUNEX	PM2.5_IDLEX	PM2.5_STREX
SANTA CLARA	2022	LHDT1	Aggregate	Aggregate	Diesel	-	0.02686935	0
SANTA CLARA	2022	LHDT1	Aggregate		5 Diesel	0.053877953	-	-
SANTA CLARA	2022	LHDT2	Aggregate	Aggregate	Diesel	-	0.027131258	0
SANTA CLARA	2022	LHDT2	Aggregate		5 Diesel	0.052375458	-	-

EMFAC2017 Default Values and Daily Project Values for LHDT Truck Trips			
	Vehicle Miles Traveled (VMT)	Vehicle Population	Vehicle Trips
Project Estimates:	1.40	7	14

	PM2.5_RUNEX (grams/mile)	PM2.5_IDLEX (grams/vehicle)	PM2.5_STREX (grams/trip)	PM2.5_RUNEX (grams)	PM2.5_IDLEX (grams)	PM2.5_STREX (grams)
EMFAC Fleet Mix Proportions:						
Light-Duty Truck Vehicle Classes	0.053490569	0.026936877	0	0.07	0.19	-
LHD1	74%					
LHD2	26%					
Totals (grams/day):				0.07	0.19	-

Daily PM _{2.5} Emissions (grams):	0.263444935
Daily PM _{2.5} Emissions (pounds):	0.000580797
Daily PM _{2.5} Emissions (tons):	0.000000290
Annual PM _{2.5} Emissions (tons):	0.000000001

Region	Calendar Year	Vehicle Category	Model Year	Speed Bin	Fuel	PM2.5_RUNEX	PM2.5_IDLEX	PM2.5_STREX
SANTA CLARA		2022 LDA	Aggregate	Aggregate	Gasoline	-	-	0
SANTA CLARA		2022 LDA	Aggregate		5 Gasoline	0.009125938	-	-
SANTA CLARA		2022 LDT1	Aggregate	Aggregate	Gasoline	-	-	0
SANTA CLARA		2022 LDT1	Aggregate		5 Gasoline	0.011641412	-	-
SANTA CLARA		2022 LDT2	Aggregate	Aggregate	Gasoline	-	-	0
SANTA CLARA		2022 LDT2	Aggregate		5 Gasoline	0.009109222	-	-
SANTA CLARA		2022 MDV	Aggregate	Aggregate	Gasoline	-	-	0
SANTA CLARA		2022 MDV	Aggregate		5 Gasoline	0.009654694	-	-
SANTA CLARA		2022 MCY	Aggregate	Aggregate	Gasoline	-	-	0
SANTA CLARA		2022 MCY	Aggregate		5 Gasoline	0.010589959	-	-

EMFAC2017 Default Values and Daily Project Values for Passenger Vehicles			
Vehicle Miles Traveled (VMT)		Vehicle Population	Vehicle Trips
Project Estimates:	1.40	7	14

EMFAC Fleet Mix Proportions:	PM2.5_RUNEX (grams/mile)	PM2.5_IDLEX (grams/vehicle)	PM2.5_STREX (grams/trip)	PM2.5_RUNEX (grams)	PM2.5_IDLEX (grams)	PM2.5_STREX (grams)
Passenger Vehicle Classes	0.009288751	0	0.001779907	0.01	-	0
LDA 65%						
LDT1 4%						
LDT2 19%						
MDV 11%						
MCY 1%						

Totals (grams/day):		0.01	-	0.02
Daily PM _{2.5} Emissions (grams):		0.0379229563		
Daily PM _{2.5} Emissions (pounds):		0.0000836059		
Daily PM _{2.5} Emissions (tons):		0.0000000418		
Annual PM _{2.5} Emissions (tons):		0.000000001		

Control Pathway

AERMOD

Dispersion Options

Titles C:\Lakes\AERMOD View\Pacific Surfacing DPM\Pacific Surfacing DPM.isc Operational HRA	
Dispersion Options <input type="checkbox"/> Regulatory Default <input checked="" type="checkbox"/> Non-Default Options	Dispersion Coefficient Urban Population: Name (Optional): Roughness Length:
<input checked="" type="checkbox"/> Flat & Elevated Terrain <input type="checkbox"/> No Stack-Tip Downwash (NOSTD) <input type="checkbox"/> Run in Screening Mode <input type="checkbox"/> Conversion of NOx to NO2 (OLM or PVMRM) <input type="checkbox"/> No Checks for Non-Sequential Met Data <input checked="" type="checkbox"/> Fast All Sources (FASTALL) <input type="checkbox"/> Fast Area Sources (FASTAREA) <input type="checkbox"/> Optimized Area Source Plume Depletion <input type="checkbox"/> Gas Deposition <div>BETA Options: <input type="checkbox"/> Capped and Horizontal Stack Releases <input type="checkbox"/> Adjusted Friction Velocity (u*) in AERMET (ADJ_U*) <input type="checkbox"/> Low Wind Options</div> <input type="checkbox"/> SCIM (Sampled Chronological Input Model) <input type="checkbox"/> Ignore Urban Night / Daytime Transition (NOURBTRAN)	Output Type <input checked="" type="checkbox"/> Concentration <input type="checkbox"/> Total Deposition (Dry & Wet) <input type="checkbox"/> Dry Deposition <input type="checkbox"/> Wet Deposition Plume Depletion <input type="checkbox"/> Dry Removal <input type="checkbox"/> Wet Removal Output Warnings <input type="checkbox"/> No Output Warnings <input type="checkbox"/> Non-fatal Warnings for Non-sequential Met Data

Pollutant / Averaging Time / Terrain Options

Pollutant Type PM2.5 Averaging Time Options Hours <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 6 <input type="checkbox"/> 8 <input type="checkbox"/> 12 <input type="checkbox"/> 24 <input type="checkbox"/> Month <input checked="" type="checkbox"/> Period <input type="checkbox"/> Annual	Exponential Decay <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Terrain Height Options <input type="checkbox"/> Flat <input checked="" type="checkbox"/> Elevated SO: Meters RE: Meters TG: Meters
Flagpole Receptors <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Default Height = 1.50 m	

Optional Files



Re-Start File



Init File



Multi-Year Analyses



Event Input File



Error Listing File

Detailed Error Listing File

Filename: Pacific Surfacing DPM.err

Source Pathway - Source Inputs

AERMOD

Polygon Area Sources

Source Type: AREA POLY

Source: ONSITE1 (Project Site - Building Emissions Only)

Base Elevation (Optional)	Release Height [m]	Emission Rate [g/ (s-m^2)]	Initial Vertical Dim. [m]	Number of Vertices (or sides)	X Coordinate for Vertices [m]	Y Coordinate for Vertices [m]
0.73	3.33	6.65E-10		4	591094.16	4143218.61
		6.65E-10			591149.50	4143159.53
		6.65E-10			591111.85	4143123.33
		6.65E-10			591054.64	4143181.38

Source Type: AREA POLY

Source: ONSITE2 (Project Site - On-site mobile sources)

Base Elevation (Optional)	Release Height [m]	Emission Rate [g/ (s-m^2)]	Initial Vertical Dim. [m]	Number of Vertices (or sides)	X Coordinate for Vertices [m]	Y Coordinate for Vertices [m]
1.00	3.33	2.66E-14		9	591054.71	4143181.33
		2.66E-14			591093.80	4143218.46
		2.66E-14			591105.99	4143206.13
		2.66E-14			591096.74	4143198.84
		2.66E-14			591141.72	4143152.05
		2.66E-14			591125.74	4143136.91
		2.66E-14			591097.30	4143165.64
		2.66E-14			591083.71	4143152.19
		2.66E-14			591054.28	4143181.47

Line Area Sources

Source Type: LINE AREA

Source: OFFSITE (Truck Traffic - State Street 1,000 ft)

Length of Side [m]	Emission Rate [g/ s]	Initial Vertical Dimension [m]	X Coordinate for Points [m]	Y Coordinate for points [m]	Base Elevation [m]	Release Height [m]
9.00	3.77E-10	2.11	591118.23	4143118.35	1.00	2.27
			591406.79	4143382.59	0.00	2.27

Source Pathway - Source Inputs

AERMOD

Area Sources Generated from Line Sources

Line Source ID	Area Source ID	X Coordinate [m]	Y Coordinate [m]	Release Height [m]	Length of Side [m]	Angle [deg]	Base Elevation [m]	Initial Sigma Z [m]
OFFSITE	A0000001	591121.26	4143115.03	2.27	78.25	317.52	1.00	2.11
	A0000002	591178.98	4143167.88	2.27	78.25	317.52	1.00	2.11
	A0000003	591236.69	4143220.73	2.27	78.25	317.52	1.00	2.11
	A0000004	591294.40	4143273.57	2.27	78.25	317.52	0.00	2.11
	A0000005	591352.11	4143326.42	2.27	78.25	317.52	0.00	2.11

Receptor Pathway

AERMOD

Receptor Networks

Note: Terrain Elevations and Flagpole Heights for Network Grids are in Page RE2 - 1 (If applicable)
Generated Discrete Receptors for Multi-Tier (Risk) Grid and Receptor Locations for Fenceline Grid are in Page RE3 - 1 (If applicable)

Discrete Receptors

Discrete Cartesian Receptors

Record Number	X-Coordinate [m]	Y-Coordinate [m]	Group Name (Optional)	Terrain Elevations	Flagpole Heights [m] (Optional)
1	591093.66	4143062.25		1.00	
2	591095.83	4143047.56		1.00	
3	591104.39	4143074.14		1.00	
4	591115.38	4143061.49		1.00	
5	591116.66	4143085.77		1.00	
6	591129.31	4143093.95		1.00	
7	591139.16	4143107.88		1.00	
8	591151.87	4143116.35		1.00	
9	591161.37	4143127.66		1.00	
10	591171.95	4143137.31		1.00	
11	591186.90	4143125.80		1.00	
12	591185.62	4143144.21		1.00	
13	591196.74	4143156.48		1.00	
14	591206.97	4143168.49		1.00	
15	591217.70	4143178.84		1.00	
16	591217.06	4143156.73		1.00	
17	591230.96	4143189.34		1.00	
18	591239.55	4143195.62		1.00	
19	591269.20	4143222.55		1.00	
20	591286.34	4143242.40		0.48	
21	591297.47	4143251.42		0.18	
22	591295.82	4143226.91		0.99	
23	591308.30	4143238.49		0.61	
24	591310.10	4143260.29		0.00	
25	591320.03	4143248.11		0.29	
26	591321.08	4143270.22		0.00	
27	591331.36	4143277.11		0.09	
28	591355.25	4143299.94		0.00	
29	591364.98	4143311.26		0.00	
30	591370.99	4143320.99		0.00	

Receptor Pathway

AERMOD

31	591374.53	4143299.05	0.00
32	591385.90	4143333.24	0.00
33	591409.06	4143351.74	0.00
34	591422.60	4143361.07	0.00
35	591400.19	4143341.67	0.00
36	591052.51	4143030.35	1.00

Plant Boundary Receptors

Cartesian Plant Boundary

Primary

Record Number	X-Coordinate [m]	Y-Coordinate [m]	Group Name (Optional)	Terrain Elevations	Flagpole Heights [m] (Optional)
1	591054.59	4143181.39	FENCEPRI	1.00	
2	591094.17	4143218.65	FENCEPRI	0.73	
3	591149.52	4143159.54	FENCEPRI	1.00	
4	591111.85	4143123.26	FENCEPRI	1.00	

Receptor Groups

Record Number	Group ID	Group Description
1	FENCEPRI	Cartesian plant boundary Primary Receptors

Meteorology Pathway

AERMOD

Met Input Data

Surface Met Data

Filename: C:\Users\lpark\OneDrive - ADEC Solutions USA, Inc\Desktop\01. Project Files\5377.0001 PS Comments\7451
Format Type: Default AERMET format

Profile Met Data

Filename: C:\Users\lpark\OneDrive - ADEC Solutions USA, Inc\Desktop\01. Project Files\5377.0001 PS Comments\7451
Format Type: Default AERMET format

Wind Speed



Wind Speeds are Vector Mean (Not Scalar Means)

Wind Direction

Rotation Adjustment [deg]:

Potential Temperature Profile

Base Elevation above MSL (for Primary Met Tower): 8.00 [m]

Meteorological Station Data

Stations	Station No.	Year	X Coordinate [m]	Y Coordinate [m]	Station Name
Surface Upper Air		2009 2009			OAKLAND/WSO AP

Data Period

Data Period to Process

Start Date: 1/1/2009 Start Hour: 1 End Date: 1/2/2014 End Hour: 24

Wind Speed Categories

Stability Category	Wind Speed [m/s]	Stability Category	Wind Speed [m/s]
A	1.54	D	8.23
B	3.09	E	10.8
C	5.14	F	No Upper Bound

Sensitive Receptor Summary

C:\Lakes\AERMOD View\Pacific Surfacing DPM\Pacific Surfacing DPM.isc
Operational HRA

PM2.5 - Concentration - Source Group: ALL

Averaging Period	Rank	Peak	Units	Receptor ID	X (m)	Y (m)	ZELEV (m)	ZFLAG (m)	ZHILL (m)	Peak Date, Start Hour
PERIOD		0.00026	ug/m^3	R1	591093.66	4143062.25	1.00	1.50	1.00	
PERIOD		0.00021	ug/m^3	R2	591095.83	4143047.56	1.00	1.50	1.00	
PERIOD		0.00039	ug/m^3	R3	591104.39	4143074.14	1.00	1.50	1.00	
PERIOD		0.00035	ug/m^3	R4	591115.38	4143061.49	1.00	1.50	1.00	
PERIOD		0.00059	ug/m^3	R5	591116.66	4143085.77	1.00	1.50	1.00	
PERIOD		0.00071	ug/m^3	R6	591129.31	4143093.95	1.00	1.50	1.00	
PERIOD		0.00080	ug/m^3	R7	591139.16	4143107.88	1.00	1.50	1.00	
PERIOD		0.00063	ug/m^3	R8	591151.87	4143116.35	1.00	1.50	1.00	
PERIOD		0.00045	ug/m^3	R9	591161.37	4143127.66	1.00	1.50	1.00	
PERIOD		0.00025	ug/m^3	R10	591171.95	4143137.31	1.00	1.50	1.00	
PERIOD		0.00016	ug/m^3	R11	591186.90	4143125.80	1.00	1.50	1.00	
PERIOD		0.00013	ug/m^3	R12	591185.62	4143144.21	1.00	1.50	1.00	
PERIOD		0.00008	ug/m^3	R13	591196.74	4143156.48	1.00	1.50	1.00	
PERIOD		0.00005	ug/m^3	R14	591206.97	4143168.49	1.00	1.50	1.00	
PERIOD		0.00004	ug/m^3	R15	591217.70	4143178.84	1.00	1.50	1.00	
PERIOD		0.00005	ug/m^3	R16	591217.06	4143156.73	1.00	1.50	1.00	
PERIOD		0.00003	ug/m^3	R17	591230.96	4143189.34	1.00	1.50	1.00	
PERIOD		0.00003	ug/m^3	R18	591239.55	4143195.62	1.00	1.50	1.00	
PERIOD		0.00002	ug/m^3	R19	591269.20	4143222.55	1.00	1.50	1.00	
PERIOD		0.00002	ug/m^3	R20	591286.34	4143242.40	0.48	1.50	0.48	

Project File: C:\Lakes\AERMOD View\Pacific Surfacing DPM\Pacific Surfacing DPM.isc

AERMOD View by Lakes Environmental Software

RS - 1 of 2

1/10/2022

Sensitive Receptor Summary

C:\Lakes\AERMOD View\Pacific Surfacing DPM\Pacific Surfacing DPM.isc
Operational HRA

PM2.5 - Concentration - Source Group: ALL

Averaging Period	Rank	Peak	Units	Receptor ID	X (m)	Y (m)	ZELEV (m)	ZFLAG (m)	ZHILL (m)	Peak Date, Start Hour
PERIOD		0.00002	ug/m^3	R21	591297.47	4143251.42	0.18	1.50	0.18	
PERIOD		0.00001	ug/m^3	R22	591295.82	4143226.91	0.99	1.50	0.99	
PERIOD		0.00001	ug/m^3	R23	591308.30	4143238.49	0.61	1.50	0.61	
PERIOD		0.00002	ug/m^3	R24	591310.10	4143260.29	0.00	1.50	0.00	
PERIOD		0.00001	ug/m^3	R25	591320.03	4143248.11	0.29	1.50	0.29	
PERIOD		0.00001	ug/m^3	R26	591321.08	4143270.22	0.00	1.50	0.00	
PERIOD		0.00001	ug/m^3	R27	591331.36	4143277.11	0.09	1.50	0.09	
PERIOD		0.00001	ug/m^3	R28	591355.25	4143299.94	0.00	1.50	0.00	
PERIOD		0.00001	ug/m^3	R29	591364.98	4143311.26	0.00	1.50	0.00	
PERIOD		0.00001	ug/m^3	R30	591370.99	4143320.99	0.00	1.50	0.00	
PERIOD		0.00001	ug/m^3	R31	591374.53	4143299.05	0.00	1.50	0.00	
PERIOD		0.00001	ug/m^3	R32	591385.90	4143333.24	0.00	1.50	0.00	
PERIOD		0.00001	ug/m^3	R33	591409.06	4143351.74	0.00	1.50	0.00	
PERIOD		0.00001	ug/m^3	R34	591422.60	4143361.07	0.00	1.50	0.00	
PERIOD		0.00001	ug/m^3	R35	591400.19	4143341.67	0.00	1.50	0.00	
PERIOD		0.00007	ug/m^3	R36	591052.51	4143030.35	1.00	1.50	1.00	

PROJECT TITLE:
C:\Lakes\AERMOD View\Pacific Surfacing DPM\Pacific Surfacing DPM.isc
Operational HRA

COMMENTS:

SOURCES:

3

RECEPTORS:

1380

OUTPUT TYPE:

Concentration

MAX:

1.7E-03 ug/m³

COMPANY NAME:

MODELER:

DATE:

1/10/2022

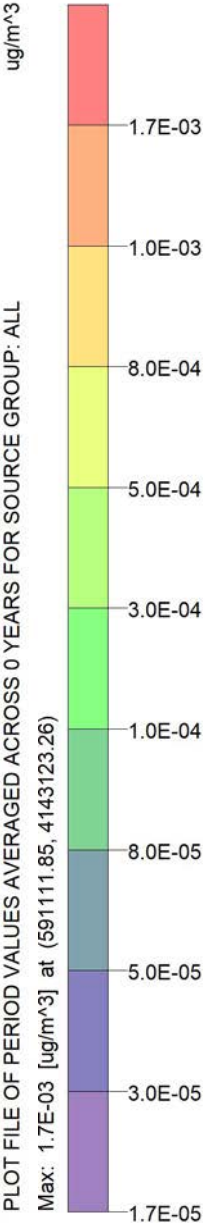
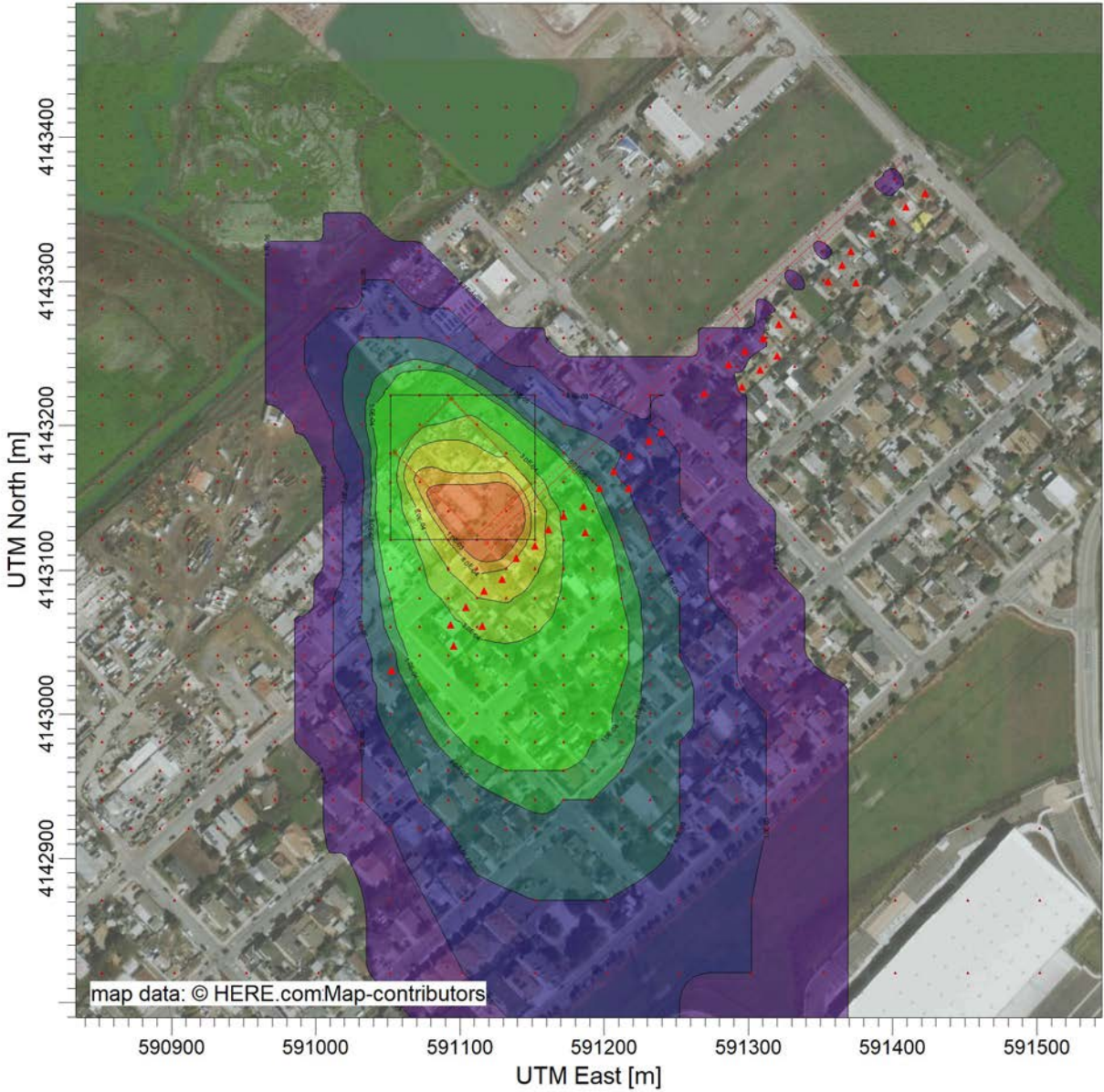
SCALE:

1:4,788

0

0.1 km

PROJECT NO.:



HARP2 - HRACalc (dated 19044) 1/10/2022 10:29:37 AM - Output Log

GLCs loaded successfully

Pollutants loaded successfully

RISK SCENARIO SETTINGS

Receptor Type: Resident

Scenario: Cancer

Calculation Method: HighEnd

EXPOSURE DURATION PARAMETERS FOR CANCER

Start Age: -0.25

Total Exposure Duration: 30

Exposure Duration Bin Distribution

3rd Trimester Bin: 0.25

0<2 Years Bin: 2

2<9 Years Bin: 0

2<16 Years Bin: 14

16<30 Years Bin: 14

16 to 70 Years Bin: 0

PATHWAYS ENABLED

NOTE: Inhalation is always enabled and used for all assessments. The remaining pathways are only used for cancer and noncancer chronic assessments.

Inhalation: True

Soil: False

Dermal: False

Mother's milk: False

Water: False

Fish: False

Homegrown crops: False

Beef: False

Dairy: False

Pig: False

Chicken: False

Egg: False

INHALATION

Daily breathing rate: RMP

Worker Adjustment Factors

Worker adjustment factors enabled: NO

****Fraction at time at home****

3rd Trimester to 16 years: ON

16 years to 70 years: ON

TIER 2 SETTINGS

Tier2 adjustments were used in this assessment. Please see the input file for details.

Tier2 - What was changed: DBRs changed|FAH changed|

Calculating cancer risk

Cancer risk saved to: C:\Users\lpark\OneDrive - ADEC Solutions USA, Inc\Desktop\01. Project Files\5377.0001 PS Comments\HARP2\Pacific Surfacing MIR_CancerRisk.csv

HRA ran successfully

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Appendix B:
Operations Plan

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OPERATIONS PLAN

1436 State Street

San Jose, CA

Pacific Surfacing, Inc. (PSI) corporation yard is used for parking company vehicles, equipment and light materials (new wood, rebar, and various other non-hazardous materials packaged in factory sealed containers.) An office staff of 5 is present in this yard as well. PSI does not operate during night hours. Our crew members arrive at times designated/staggered by operations staff, and park their personal vehicles in the allocated parking area vacated by the assigned PSI vehicle. PSI vehicles park only in the corporation yard to ensure minimal disruption to the surrounding area. All vehicles travel on a designated site-specific route provided daily by the operations staff. This is to ensure adherence to all safety, environmental and municipal protocols.

PSI is registered with the California Air Resources Board (CARB). PSI is ahead of the requirement for reduction of toxic air contaminants (TACs.) We have zero registered complaints against our fleet in the history of the program. Designating routes of travel for our drivers is our continued support and commitment to the State's diesel risk reduction plan. PSI uses fleet tracking software to monitor speed, idle and hours traveled for adherence to California Department of Transportation standards.

The attached map will describe site specific detail for your review.

Listed below are the details requested for our fleet:

Light Duty Vehicles – (5) i.e., non-commercial ½ ton pickup trucks. These vehicles are used for miscellaneous support tasks in the bay area. 5,000 – 7,500 miles per vehicle annually.

Medium Duty Vehicles – (9) i.e., non-commercial flatbeds with crew cab for transport of crew, tools and materials. These vehicles travel directly from the corporation yard to designated jobsites throughout the bay area. Once on designated jobsites the remain turned off and parked until the end of the workday. 10,000 – 12,500 miles per vehicle annually.

Heavy Duty Vehicles – (7) i.e., Commercial vehicles used to transport equipment and materials. These vehicles travel directly from the corporation yard to designated jobsites throughout the bay area. Once equipment is delivered to the designated jobsite, these vehicles travel on designated routes to material suppliers and return material as needed. 25,000 – 30,000 miles per vehicle annually.



Clarification of Truck Restricted Areas – PSI commercial vehicles will not travel on any roads other than State Street (east of 1436), Spreckles Ave, and Los Esteros. Please reference the above map for clarification.

Hours of Operations – Heavy equipment, commercial vehicles, and other onsite commercial/industrial noise will be only take place between 6:00AM and 6:00PM.

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DENYING THE PERMIT APPEAL AND APPROVING, SUBJECT TO CONDITIONS, A SITE DEVELOPMENT PERMIT TO ALLOW THE RECONFIGURATION OF AN EXISTING APPROXIMATELY 3,100-SQUARE FOOT VACANT BUILDING TO WAREHOUSE AND INCIDENTAL OFFICE USE, THE ADDITION OF AN OUTDOOR MATERIALS STORAGE PAD, AND CONSTRUCTION OF AN APPROXIMATELY 675-SQUARE FOOT UTILITY BUILDING WITH STAFF LOCKER ROOMS, FOR USE AS A CORPORATION YARD ON AN APPROXIMATELY 0.97-GROSS ACRE SITE LOCATED ON THE NORTH SIDE OF STATE STREET, APPROXIMATELY 290 FEET EASTERLY OF ESSEX STREET (1436 STATE STREET; APNS: 015-11-056, 015-11-085, AND 015-11-094)

FILE NO. H21-049

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on October 24, 2018, an application (File No. SP18-058, converted to File No. H21-049) was filed by the applicant, Clay Laucella, on behalf of Laucella Holdings LLC, with the City of San José for a Special Use Permit (converted to a Site Development Permit) to allow the reconfiguration of an existing approximately 3,100-square foot vacant building to warehouse and incidental office use, the addition of an outdoor materials storage pad, a propane tank, an enclosed asphalt sealant tank, and construction of an approximately 635-square foot utility building with staff locker rooms and a trash enclosure, for use as a corporation yard on an approximately 0.97-gross acre site, on that certain real property situated in the LI Light Industrial Zoning District and located on the north side of State Street, approximately 290 feet easterly of Essex Street (1436 State Street; APNS: 015-11-056, 015-11-085, and 015-11-094, which real property is sometimes referred to herein as the “subject property”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," entitled “Legal Description,” and depicted in Exhibit “B,” entitled “Map of

New Chicago at Port of Alviso,” which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Hearing Officer for the Director of Planning, Building and Code Enforcement conducted a hearing on said application on December 8, 2021, notice of which was duly given; and

WHEREAS, at said hearing, the Hearing Officer gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the Director of Planning, Building and Code Enforcement approved the requested Site Development Permit, for which decision an appeal to the City Council was timely filed by a neighbor of the subject property; and

WHEREAS, on December 10, 2021, a timely appeal of the Director of Planning, Building and Code Enforcement’s approval of the Environmental Determination was filed by appellant Mark Espinoza, being a member of the Alviso community, citing the reasons for the appeal being insufficient analysis within the Initial Study/Mitigated Negative Declaration, specifically in the areas of air quality and traffic; and

WHEREAS, on December 14, 2021, a timely appeal of the Director of Planning, Building and Code Enforcement’s approval of the Site Development Permit was filed by appellant Manuel Martinez, being a property owner within 1,000 feet of the subject project site, citing the reasons for the appeal being truck traffic impacts, hours of operation, and consistency with the Alviso Master Plan; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a *de novo* administrative hearing on

said application and the appeal of the Director of Planning, Building and Code Enforcement's decision, notice of which was duly given; and

WHEREAS, at said hearing, City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, this City Council received and considered the reports and recommendations of the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, "Improvements to an Existing Site for Pacific Surfacing, Inc." dated May 17, 2021, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said public hearing before this City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council; and

WHEREAS, this City Council has heard and considered the testimony presented to it at the public hearing, and has further considered written materials submitted on behalf of the project applicant, City staff, and other interested parties;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering all of the evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. **Site Description and Surrounding Uses.** The subject site is located on the north side of State Street (1436 State Street), approximately 290 feet easterly of Essex Street within the Alviso Master Plan area and is currently developed with an approximately 3,100-square foot vacant building. Access to the site is via a 32-foot wide driveway from State Street, and a secondary one-way exit from the site is 19 feet wide along the westerly property line, also exiting to State Street. The site is surrounded to the east, north, and west by light industrial uses and to the south by single-family residential uses.
2. **Project Description.** The project is a Site Development Permit to allow the reconfiguration of the existing 3,100-square foot vacant building to warehouse and incidental office use, the addition of an outdoor materials storage pad, a propane tank, and an enclosed asphalt sealant tank, and the construction of an approximately 635-square foot utility building with staff locker rooms and a trash enclosure (a total of 3,735 square feet of development), for a new corporation yard on an approximately 0.97-gross acre site.

Operations of the corporation yard include parking company vehicles and storing equipment and light materials (new wood, rebar, and various other non-hazardous materials packaged in factory sealed containers). An office staff of five employees will oversee the site during working hours. Heavy equipment, commercial vehicles, and other onsite commercial/industrial activities will take place between 6:00 a.m. and 6:00 p.m. The corporation yard will not operate during evening hours.
3. **General Plan Consistency.** The subject site is designated Light Industrial on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan. This designation supports the management of land uses to provide and enhance economic development and job growth in San Jose and is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. This designation allows a FAR of up to 1.5.

Analysis: The project is a corporation yard, which is a light industrial use, and encompasses a total of 3,735 square feet of development over 0.97 gross acre, resulting in a FAR of 0.09, which is below the maximum of 1.5 FAR. Corporation yard uses are allowed within the Light Industrial General Plan Land Use Designation. Since the project does not include any unmitigated or hazardous nuisances, the project is consistent with the land use designation.

General Plan Policies

The following items are goals, policies, and design guidance items outlined in the General Plan and applicable to the project site and the proposed project.

Land Use and Employment Policy IE-1.1 – To retain land capacity for employment uses in San José, protect and improve the quantity and quality of all lands designated exclusively for industrial uses, especially those that are vulnerable to conversion to non-employment uses.

Fiscal Sustainability Policy FS-4.5 – Maintain and expand the total amount of land with either a Light Industrial or Heavy Industrial designation. Do not add overlays or other designations that would allow for non-industrial, employment uses.

Industrial Lands Policy LU-6.8 – Reserve industrial areas for industrial and compatible support uses, while recognizing that industrial uses come in a variety of types and forms.

Transportation Policy TR-6.5 – Design freight loading and unloading for new or rehabilitated industrial and commercial developments to occur off public streets.

Analysis: The project is retaining the light industrial use of the existing site and is not being rezoned for non-employment use. The freight and loading areas have been well designed for the project activities to occur off the public streets, and are located at the rear of the site, farthest from the public right-of-way. The project is therefore consistent with the policies of the General Plan.

4. **Alviso Master Plan Consistency.** The subject site is shown within the Light Industrial area in Figure 8, Land Use Plan, of the Alviso Master Plan. This area is described on page 24 of the Master Plan as “a mix of industrial supply services, metal working, equipment manufacturing, trucking companies, warehouses, marina and boat storage, and other open storage businesses.”

Analysis: The operation of the corporation yard includes parking company vehicles and storing equipment and light materials on the site to be transported to construction sites as necessary. This use is consistent with the Master Plan land use designation.

The project is also consistent with the policies of the Alviso Master Plan. Specific policies applicable to this site include the following:

- a. Landscaping and screening along State Street should create a more compatible edge with the adjacent residential neighborhood.
- b. Industrial/Non-Industrial Relationships Policy 3: Industrial uses located adjacent to or across the street from residential, school, or other sensitive uses should:
 - 1) Use attractive walls and landscaping to screen parking, loading, storage, and other outdoor activity areas.
 - 2) Not take access from Wilson Way or Tony P. Santos Street.
 - 3) Provide sufficient on-site parking to avoid street parking of vehicles.
 - 4) Limit hours of operation for any activities that may be considered a nuisance.

Analysis: The project design includes several trees and shrubs along the frontage of State Street to create compatibility with the residences across the street and to screen activities within the project site from adjacent neighbors. Per the Operations Plan submitted with the application, the site will operate from 6:00 a.m. to 6:00 p.m.

This is consistent with Section 20.50.220 of the Zoning Code for projects within Industrial Zoning Districts, which states, "No outdoor activity, including loading, sweeping, landscaping or maintenance shall occur within one hundred fifty feet of any residentially zoned property between the hours of 12:00 midnight and 6:00 a.m." Since this project does not propose any work after 6:00 p.m., and will not begin work until 6:00 a.m., the project is consistent with the Zoning Code. Commercial vehicles will not travel on any roads other than State Street, Spreckles Avenue, and Los Esteros Road on a direct route to Highway 237. The parking is consistent with the Zoning Code requirements, as discussed below.

5. **Zoning Ordinance Consistency.** The project site is located within the **LI Light Industrial** Zoning District. This zone is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. The development standards for this zone are discussed below:

- a. Use: Pursuant to Municipal Code Section 20.50.100, corporation yards are allowed within the LI Zoning District with a Site Development Permit.
- b. Setbacks and Height: Per Section 20.50.200 of the Zoning Code, properties located in the LI zoning district shall be subject to the following setbacks and height regulations:

Regulation	Required	Provided
Front Setback to Building	Minimum 15 feet	24 feet
Front Setback to Parking	Minimum 20 feet	20 feet
Front Setback to Truck Parking	Minimum 30 feet	170 feet
Side Setback	0 feet	5 feet
Rear Setback	0 feet	30 feet
Height	Maximum 50 feet	18.7 feet

Analysis: As shown above, the project's setbacks and height are consistent with the requirements.

- c. Vehicle Parking: The parking required for Industrial Services use per Table 20-190 of the Zoning Code is one space per 350 square feet of net floor area. With a net floor area of 3,175 square feet (85% of gross 3,735 square feet), the required parking is nine spaces.

Analysis: The project is providing nine parking spaces and is consistent with the requirement.

- d. Motorcycle Parking: Per Section 20.90.350.B, a minimum of three motorcycle parking spaces shall be provided.

Analysis: The project is providing three motorcycle parking spaces and is consistent with the requirement.

- e. Bicycle Parking: For Industrial Services use, one bicycle space per 5,000 sf of net floor area is required. Since the project proposes less than 5,000 square feet of floor area, Section 20.90.060.B.3 applies, which requires a minimum of two short-term bicycle parking spaces and one long-term bicycle parking space.

Analysis: The project is providing one long-term bicycle locker and one bicycle rack with three short-term spaces provided. This is consistent with the requirement.

- f. Noise. Section 20.50.300 of the Zoning Ordinance describes performance standards for projects within the LI Light Industrial Zoning District relating to noise and nuisance, as follows:

Section 20.50.300.A.3. – In the LI zoning district, no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted in a manner that creates a public or private nuisance.

Section 20.50.300.B.4. – Without limiting the generality of the preceding subsection, the following specific standards shall apply in the industrial zoning districts: Noise. The sound pressure level generated by any use or combination of uses shall not exceed the decibel level at any property line as shown in Table 20-135, except upon issuance and in compliance with a special use permit as provided in Chapter 20.100.

Table 20-135 Noise Standards	Maximum Noise Level in Decibels at Property Line
Industrial use adjacent to a property used or zoned for residential purposes	55
Industrial use adjacent to a property used or zoned for commercial purposes	60
Industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes	70

Analysis: The Noise Assessment Study, prepared by Edward L. Pack Associates, Inc., dated June 13, 2019, concluded that no on-site noise exceeding 55 dBA was identified, and the project is consistent with the noise standards of the Zoning Ordinance. Additionally, per Section 3.5.1 of the environmental document, the project would be consistent with the General Plan policies governing noise and would not result in an increase of 5 dBA DNL or more where the noise levels would

remain "Normally Acceptable" or 3 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable."

6. Industrial Design Guidelines Consistency. The project was analyzed for consistency with applicable Industrial Design Guidelines. The project complies with the key guidelines below:

- a. Section 3.C.1.e. Provide a minimum four-foot high parking screen when residential uses are located across the street. Attractive walls, berms, dense landscaping or depressed parking are acceptable screening solutions.

Analysis: As shown in the approved project plans, the project is providing attractive, dense landscaping adjacent to the right-of-way of State Street and a gated entry to screen the project's on-site activities from the residential uses across the street. This is consistent with the requirement.

- b. Section 3.D.4. A minimum five-foot wide landscape bulb should be provided at the ends of each parking aisle.

Analysis: As shown in the approved project plans, there are five-foot wide landscape bulbs at the end of each parking aisle within the project site. This is consistent with the requirement.

- c. Section 3.D.6. A minimum of one tree should be planted at four parking space intervals in a parking lot aisle to help shade the pavement.

Analysis: As shown in the approved project plans, two trees are planted adjacent to the parking aisle with eight spaces, and six trees are planted adjacent to the parking aisle with thirteen truck parking spaces. This is consistent with the requirement.

- d. Section 4.C.6. Two-way driveways to loading areas and service yards should have a minimum width of 26 feet. One-way aisles should be at least 12 feet wide. Dimensions and minimum turning radiuses for trucks / trailers should be considered in the design of loading facilities.

Analysis: The main entrance to the site is located on State Street and is 32 feet wide. The secondary one-way exit from the site is 19 feet wide along the westerly property line, also exiting to State Street. This is consistent with the requirement.

- e. Section 4.D.1. Outdoor storage areas should be identified, planned and included in the site and building design of the project. Outdoor storage should only occur within approved storage areas which are permanently screened from view.

Analysis: The project includes an outdoor storage area and outdoor propane tank. The outdoor storage area is at the rear of the site and is screened from view from the public right-of-way by landscaping and from adjacent properties by a proposed six-foot high fence. This is consistent with the requirements.

7. **City Council Policy Consistency.** Under City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals, the project is considered to be a standard development. Standard development projects are required to provide Early Notification by website, email, and by on-site signage. Following City Council Policy 6-30, the on-site sign has been posted at the site since December 29, 2018 to inform the neighborhood of the project. Public Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. Staff has been available to respond to questions from the public.
8. **California Environmental Quality Act.** An Initial Study (IS) in support of a Mitigated Negative Declaration (MND) for the 1436 State Street Project was prepared in compliance with the CEQA Statute and Guidelines and reflects the independent judgement of the City.

The Initial Study identified relevant mitigation measures for potential impacts to air quality and hazardous materials. In addition, standard permit conditions are made part of the permit approval. These standard permit conditions include best management practices for controlling dust and exhaust during construction, compliance with the Habitat Plan, uncovering buried archaeological or historic resources and human remains during construction activities, preventing stormwater pollution during construction, managing mechanical equipment noise, and interior noise levels. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) and both the mitigation measures and standard permit conditions are made a part of this permit.

The IS concluded that the proposed project would not result in a significant and unavoidable impact and an MND is the appropriate level of CEQA clearance for the project.

The MND was circulated for public review from September 3, 2021 through October 4, 2021. Comment letters were received from PG&E, Preservation Action Council of San José, Valley Water, and a resident. The letters identified application process for PG&E review, minor corrections to the water facilities names, a request for further information regarding the project's conformance to General Plan Land Use Policies LU14.4 and LU-14.6, and comments on the project's design and programming. A response to comments was prepared to respond to these public comments. The comments received do not identify new issues about the project's environmental impacts requiring corrections or revisions to the IS/MND, nor did they provide information indicating that the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. All comments have been fully responded to in the Final Initial Study/Mitigated Negative Declaration.

The Final MND, supporting IS, associated technical studies (in appendices to the IS), and responses to comments are all available on the Planning Division environmental

review webpage at: <https://www.sanjoseca.gov/negativedeclarations>.

9. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Site Development Permit, as follows:

- a. The site development permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies; and

Analysis: As analyzed above, the corporation yard project is consistent with the Light Industrial General Plan Land Use Designation and General Plan Policies. The use is allowed within the land use designation, and the project is providing 0.09 FAR. The project is also consistent with the Alviso Master Plan land use designation and complies with the Master Plan Policies.

- b. The site development permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: Corporation yard uses are permitted within the LI Light Industrial Zoning District. The project is consistent with the parking, height, setbacks, and all other requirements of the LI Zoning District, as analyzed above. Therefore, the project is consistent with the municipal code development standards.

- c. The site development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project is subject to and conforms to the Public Outreach Policy for Pending Land Use and Development Proposals. The on-site sign has been posted at the site since December 29, 2018 to inform the neighborhood of the project. Public Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. Staff has been available to respond to questions from the public.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The project consists of two buildings. One building is an existing 3,100 square foot building being reconfigured for the purposes of warehouse, vehicle repair, and incidental office use with restrooms. The second building is a new 635 square foot utility building with a trash enclosure, equipment storage, and locker room. There is a single use of corporation yard on the site. Improvements include parking, landscaping, and a gated entry to screen the use from the residences across the street. Therefore, the project is harmonious and mutually compatible with the on-site uses.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: As described above, the project is surrounded by similar light industrial uses to the north, east, and west of the site. The project architecture is compatible with the surrounding light industrial architecture. The project design is consistent with the Industrial Design Guidelines in regard the provision of landscaping and gating to screen project activities from adjacent existing residences.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Analysis: The project incorporates mitigation measures to address air quality and hazardous materials. The project will be required to adhere to all applicable standard permit conditions and mitigation measures related to reducing temporary and operational sources of noise and vibration, dust, and erosion. The project will be required to comply with all City permits and policies related to erosion and storm water runoff. For these reasons the project is not anticipated to have an unacceptable negative effect on adjacent properties.

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: Landscaping is provided along the sidewalk, along the parking aisles, and within parking bulbs at the ends of each parking aisle. Utilities associated with the buildings are shielded from view. The trash enclosure is located inside the new utility building and is shielded from the view from all adjacent public space.

- h. Traffic access, pedestrian access and parking are adequate, in that the project is subject to construction of public improvements and sidewalk access.

Analysis: As described above, the project meets the requirements for parking, curb cuts, and street access per the San José Municipal Code. The main vehicular site access and the main pedestrian access are from State Street.

In accordance with the findings set forth above, the appeal of the Site Development Permit is denied, and a Site Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. This City Council expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

CONDITIONS

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Site Development Permit (referred to as "Permit" herein) within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions

designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** Development of the site and all associated improvements shall conform to the approved Site Development Permit plans entitled, "Site Development Permit for: Pacific Surfacing, Inc." dated May 17, 2021, on file with the Department of Planning, Building and Code Enforcement as may be amended and approved by the Director of Planning, Building, and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24). The plans are referred to herein as the "approved plans" or the "Approved Plan Set."
6. **Lot Line Adjustment.** Prior to the issuance of any Building Permit, the Permittee shall secure approval and provide proof of recordation of a Lot Line Adjustment to consolidate the existing three lots.
7. **Operations Plan.** Permittee shall fully comply with the approved Management and Operations Plan, dated January 6, 2022, as may be amended.
8. **Hours of Operation.** As provided in the Operations Plan, outdoor activities at the project site shall be limited to the hours between 6 a.m. and 6 p.m., and noise-generating activities will not begin prior to 7:00 a.m.
9. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
10. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
11. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
12. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
13. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.

14. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
15. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts, and garbage.
16. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
17. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
18. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
19. **Required Vehicular and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building and Code Enforcement.
20. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building and Code Enforcement.
21. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
22. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
23. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans. Changes to the landscaping requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building and Code Enforcement.
24. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The

design of the system shall be approved and stamped by a California Registered Landscape Architect.

25. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
26. **Street Trees.** Street trees, as shown on Approved Plans, shall be planted on the street frontage, unless otherwise approved by the Public Works Department. A permit for planting street trees shall be obtained from the City Department of Transportation, Trees and Landscaping Section, (408) 794-1900.
27. **Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Lot Line Adjustment.* Refer to Condition No. 6.
 - b. *Construction Plans.* This permit file number, H21-049, shall be printed on all construction plans submitted to the Building Division.
 - c. *San Jose's Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City's Natural Gas Infrastructure Prohibition and Reach Code Ordinances apply to this project and all requirements shall be met. For more information, please visit www.sjenvironment.org/reachcode.
 - d. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - e. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
28. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the project must comply with the 2019 California Fire Code, or as amended and adopted by the City.
29. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at <http://www.sanjoseca.gov/devresources>.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- b. **Transportation:**
 - i. In alignment with State of California Senate Bill 743 (SB743), the City of San Jose Policy, Transportation Impact Policy - Council Policy 5-3 has been replaced with a new Transportation Analysis Policy - Council Policy 5-1. Council Policy 5-1 replaced the transportation impacts threshold from Level of Service (LOS) under Council Policy 5-3 to Vehicle Miles Traveled (VMT).
 - ii. This project would not require a detailed CEQA transportation analysis because the project is expected to result in less-than-significant VMT impacts based on Table 1 (Screening Criteria for CEQA Transportation Analysis for Development Projects) of the Transportation Analysis Handbook 2018, industrial use of 30,000 square feet of gross floor area or less. However due to community concerns, a Local Transportation Analysis (LTA) has been performed for this project to evaluate the project's effect on transportation, access, and related safety elements in the proximate area of the project. See separate Transportation Analysis Memo dated 10/26/21 for additional information.
- c. **Grading/Geology:**
 - i. A grading permit may be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining

and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- f. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works Clearance.
- g. **Municipal Water:** In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Department of Public Works at (408) 794-6769 for further information.
- h. **Undergrounding:** The In-Lieu Undergrounding Fee shall be paid to the City for the frontage adjacent to State Street prior to issuance of a Public Works clearance. Twenty-five percent (25%) of the base fee in place at the time of payment will be due. Currently, the 2022 base fee is \$574 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
- i. **Street Improvements:**
 - i. Remove existing curb, gutter, and sidewalk and construct 10-foot wide attached sidewalk with tree wells.
 - ii. Construct 32-foot wide central driveway.
 - iii. Construct 20-foot wide westerly driveway.
 - iv. Close any unused driveway cuts.

- v. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - vi. Permittee shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
 - vii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - j. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - k. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in tree wells at back of curb along the project frontage on State Street. If street tree locations conflict with existing utilities, developer shall be solely responsible for relocating or adjusting utilities as necessary to resolve conflict. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
30. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development by City Council Resolution No. _____.
31. **Applicant Volunteered Condition, Cultural Awareness Training.** Prior to issuance of any Grading Permit, the Permittee shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbances. The training shall be facilitated by a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.
32. **Applicant Volunteered Condition, Native American Monitor.** A qualified Native American monitor, registered with the Native American Heritage Commission for the City of San Jose and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3, shall also be present during applicable earthmoving activities such as, but not limited to, trenching, initial or full grading, or boring on site.
33. **Standard Permit Conditions**
- a. **Air Quality.** The permittee shall implement the following measures during all phases of construction to control dust and exhaust at the project site.

- i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
 - ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
 - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
 - vii. Replant vegetation in disturbed areas as quickly as possible.
 - viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - ix. Minimize idling times either by shutting off equipment 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). Provide clear signage for construction workers at all access points.
 - x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
 - xi. Post a publicly visible sign with the telephone number and contact person regarding dust complaints.
- b. **Greenhouse Gas.** Prior to the issuance of any grading and building permits for the project, the Permittee shall provide documentation demonstrating that the project will participate in community solar programs (such as San Jose Clean Energy) to support development of renewable energy in the community to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.
- c. **Cultural Resources**
- i. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a

50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist with a Native American representative registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and 2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

- ii. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Permittee shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - a) The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 - b) The MLD identified fails to make a recommendation; or
 - c) The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

- iii. **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee.

d. Tribal Resources

- i. Prior to issuance of any Grading Permit, the Permittee shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbances. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.
- ii. A qualified Native American monitor, registered with the Native American Heritage Commission for the City of San Jose and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3, shall also be present during applicable earthmoving activities such as, but not limited to, trenching, initial or full grading, or boring on site.

e. Geology and Soils.

- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

- iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- v. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

f. Hydrology and Water Quality

- i. Construction-related water quality.
 - a) Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
 - b) Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
 - c) All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary
 - d) Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
 - e) All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
 - f) All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
 - g) Vegetation in disturbed areas shall be replanted as quickly as possible.
 - h) All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- ii. The Permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- g. **Noise.** The Permittee shall implement the following measures during all phases of construction to control noise at the project site:

- i. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
 - ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
 - iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - iv. Prohibit unnecessary idling of internal combustion engines.
 - v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
 - vi. Utilize "quiet" air compressors and other stationary noise sources where technology exists.
 - vii. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
 - viii. Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
 - ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
 - x. Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- 34. Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the City Council at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who

is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

In accordance with the findings set forth above, a permit to develop the subject property for said purpose specified above is hereby **approved**.

ADOPTED this _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DENYING AN ENVIRONMENTAL APPEAL OF AND UPHOLDING THE PLANNING DIRECTOR'S ADOPTION OF THE 1436 STATE STREET PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, prior to the adoption of this Resolution, the Director of Planning, Building and Code Enforcement of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the 1436 State Street Project under Planning File No. H21-049 (the "Initial Study/Mitigated Negative Declaration"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, the 1436 State Street Project (the "Project") analyzed under the Initial Study/Mitigated Negative Declaration consists of a Site Development Permit to improvements to the interior of the existing approximately 3,100-square-foot metal building, construction of a new 635-square-foot utility building, installation of two new storage tanks, the addition of an outdoor storage area, re-paving, and landscaping for a corporation yard use on a 0.97-gross acre site located at 1436 State Street (Assessor's Parcel Numbers 015-11-056, 015-11-085, 015-11-094), San José, California; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in certain significant effects on the

environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the “Mitigation Monitoring and Reporting Program”); and

WHEREAS, the Director of Planning, Building and Code Enforcement of the City of San José made an Environmental Determination approving the Mitigated Negative Declaration and a related mitigation monitoring and report program, on December 8, 2021, all pursuant to the provisions of CEQA; and

WHEREAS, on December 10, 2021, Mark Espinoza, a neighbor to the project site, submitted a timely appeal of the Environmental Determination for the 1465 State Street Project Initial Study/Mitigated Negative Declaration, concerning the adequacy of the CEQA documents and impacts on air quality, greenhouse gas emissions, hazards and hazardous materials/public health, noise; and

WHEREAS, notice of the date, time, and place of the hearing before the City Council on the appeal was duly and properly given pursuant to and in compliance with the provisions and requirements of Title 21 of the San José Municipal Code; and

WHEREAS, at the date, time, and place provided in said notice, or the date to which such hearing was deferred or continued by the City Council, the City Council of the City of San José conducted a public hearing *de novo* on the appeal and provided all persons with an opportunity to be heard and provide testimony or evidence on the matter of the appeal to the City Council;

WHEREAS, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, are available for inspection by any interested person at that location and electronically on the City of San José's Department of Planning, Building and Code Enforcement website, and are, by this reference, incorporated into this Resolution as if fully set forth herein;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Initial Study/ Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning, Building and Code Enforcement, at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby deny the environmental appeal and uphold the Planning Director's adoption of the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File No. H21-049). The Mitigation Monitoring and Reporting Program for the Project is attached hereto as Exhibit "A" and fully incorporated herein. The Initial Study/ Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and electronically on the City of San José's Department of Planning, Building and Code Enforcement website, and (2) available for inspection by any interested person.

ADOPTED this ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

1436 State Street Project
File No. H21-049
February 2022



PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and 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 and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/Mitigated Negative Declaration prepared for the 1436 State Street Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

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

I, Pacific Surfacing, Inc., the applicant, on the behalf of the City of San Jose, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature Clay Lausella

Date 02/06/2022

MITIGATIONS		MONITORING AND REPORTING PROGRAM			
		Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]	
		Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports Monitoring Timing or Schedule
AIR QUALITY					
Impact AQ-1: Diesel Particulate Materials (DPM) emissions related to project construction would result in an exceedance of BAAQMD cancer risk thresholds of 10 cancer risk cases per million.					
MM-AIR-1: All off-road equipment equal to or greater than 50 horsepower shall meet either United States Environmental Protection Agency (EPA) or California Air Resources Board (ARB) Tier 4 Final off-road emission standards during all construction activities. The Project Applicant shall submit a construction management plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval, prior to issuance of any demolition, grading or building permits. The construction management plan shall demonstrate that the off-road equipment used on-site to construct the project would comply with Tier 4 Final off-road emission standards. Off-road equipment descriptions and information included in the construction management plan may include but are not limited to equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.		Submit a construction management plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.	Prior to issuance of any demolition, grading or building permits.	Director of Planning, Building and Code Enforcement or Director's Designee	Receive and review construction operations plan and verification letter. Prior to issuance of any demolition, grading, or building permits.
HAZARDS AND HAZARDOUS MATERIALS					
Impact HAZ-1: Potential contamination from previous historical presence of machine shop and metal recycling facility could be discovered during the course of grading activities.					
MM-HAZ-1: Prior to issuance of any demolition, grading or building permits, a Site Management Plan (SMP) shall be prepared by a qualified environmental professional to reduce or eliminate		Submit a Site Management Plan (SMP) prepared by a qualified environmental	Prior to issuance of any demolition, grading, or building permits.	Director of Planning, Building and Code	Receive and review the SMP. Prior to issuance of any demolition, grading, or building permits.

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>exposure risk to human health and the environment and construction worker health. The SMP will specifically address potential risks associated with the potential presence of contaminated soils associated with the site's history.</p> <p>At a minimum, the SMP shall include the following:</p> <ul style="list-style-type: none"> • Stockpile management including dust control, sampling, stormwater pollution prevention and the implementation of Best Management Practices (BMPs). • Proper disposal procedures of contaminated materials • Monitoring, reporting, and regulatory oversight notifications • A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection • The health and safety plan shall also outline proper soil/ and or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil/and or groundwater during construction. <p>The SMP shall be submitted to the City of San José Director of Planning, Building and Code Enforcement or Director's designee and the Environmental Compliance Officer of the</p>	<p>professional to reduce or eliminate exposure risk to human health and the environment and construction worker health to the Director of Planning, Building and Code Enforcement or Director's designee and the City of San José Environmental Compliance Officer.</p>		<p>Enforcement or Director's designee</p> <p>Environmental Compliance Officer in the City of San José's Environmental Services Department</p>		

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
Department of Environmental Services Department for review prior to issuance of any grading, demolition or building permits.					

Source: 1436 State Street Project Initial Study/Mitigated Negative Declaration, September 3, 2021



[VIA EMAIL ONLY]

Mayor Sam Liccardo
and Members of the San Jose City Council
200 E. Santa Clara St.
San José, CA 95113

Re: City Council Meeting March 15, 2022
Appeal of Site Development Permit
1436 State Street Project
File No. H21-049

Dear Mayor Liccardo and Councilmembers:

We urge the Council to reject the permit and environmental appeals of our project. The project went through a rigorous review and will be a very positive asset for Alviso and San Jose. There are no legitimate grounds for the appeal.

Pacific Surfacing, Inc. is a small, family-owned company that has a niche pavement maintenance business repairing parking lots. We are not a street paving company, nor do we manufacture asphalt or other paving products. We have been based in Fremont since 1992, but our lease is expiring. We needed a new light industrial location for vehicle staging in the South Bay with good access to our customers.

There are not many such sites, but on State Street in Alviso, we found a site that fit our needs and had the proper zoning. When we purchased it, the prior unpermitted contractor had left the site in an unsightly and displeasing condition visible to residents. We spent months just clearing the site, to make it more appealing, even as a vacant lot.

Our projected use will have minimal effect on the environment and the neighborhood for the following reasons:

- The site is a little under one acre in size
- We are proposing minimal construction: improvements to an existing small (3,000 sf) building, and construction of another (635 sf); paving and landscaping
- Our operation will feature drivers (typically less than a dozen) coming to the site in the morning, parking their cars and driving our company vehicles off site, then returning in the late afternoon. Travel routes are regulated in the permit operations plan.
- There will be no manufacturing or storing of hot asphalt or other such materials on site (this is not an “asphalt batch plant”).
- The project is consistent with all San Jose codes and policies.

In working on our site, we have done everything “by the book.” We have applied for and received our Site Development Permit. The City prepared an elaborate Initial Study/Mitigated Negative Declaration that showed there would be no unmitigated environmental impacts (as you would expect with a conforming use on a one-acre site).

This has been a long and very costly process for such a small project for a small-business user. The permit process has taken us 40 months. We have had to pay approximately \$63,000.00 in fees to the City (including, to our surprise, \$23,000.00 for this appeal alone, even though we are not the appellant). The costs paid to prepare the environmental documents for the City are currently \$120,000.00 (including \$13,000.00 related to this appeal).

In summary, this is a small project that has been extensively analyzed. There are no legitimate environmental or any other issues. We urge your approval so we can begin upgrading our new business location.

If you have any questions or need further information, please let us know.

Very truly yours,

A handwritten signature in black ink, reading "Clay Laucella". The signature is fluid and cursive, with the first name "Clay" and last name "Laucella" clearly distinguishable.

Clay Laucella, President,
Pacific Surfacing, Inc.,

Cc:
City Clerk
Timothy Scott Rood
Thai-Chau Le
Andrew L. Faber, Esq.

Exhibit I – Public Comments

From: [Richard Santos](#)
To: [Meiners, Laura](#)
Subject: In support of porject at 1436 State St, Alviso
Date: Tuesday, December 7, 2021 5:43:14 PM

[External Email]

#H21-049 – The Alviso Community Master Plan supported, along with the San Jose city Council, that the area west on State St, would be commercial/industrial. This is an existing area, with commercial/industrial and our Community needs more jobs and tax revenue to support benefits for our community.

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Le, Thai-Chau

From: Schmitz, Lori@Waterboards <Lori.Schmitz@waterboards.ca.gov>
Sent: Thursday, September 9, 2021 2:42 PM
To: Le, Thai-Chau
Cc: Seth Martinez
Subject: RE: 1436 State Street Project (SP18-058/ER21-110), Reservoirs Question to Understand the Project

[External Email]

Thanks for the quick reply! That was the information I needed. It clarifies no water supply permit would be needed. (The two tanks mentioned in the document must have been in reference to the asphalt sealant tank and the propane tank.)

Thanks again!

Lori Schmitz

Lori Schmitz
State Water Resources Control Board
Division of Financial Assistance
Special Project Review Unit
Lori.Schmitz@waterboards.ca.gov

From: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Sent: Thursday, September 9, 2021 2:25 PM
To: Schmitz, Lori@Waterboards <Lori.Schmitz@waterboards.ca.gov>
Cc: Seth Martinez <seth@pacificsurfacing.com>
Subject: RE: 1436 State Street Project (SP18-058/ER21-110), Reservoirs Question to Understand the Project

EXTERNAL:

Hi Lori,

Attached is the plan set for the project. Furthermore, we receive clarifications that the project is not storing any water. The bio-retention areas are required by the Department of Public Works. The applicant also confirmed that the project would be utilizing the existing water service connection for on-site water and would not be installing the reservoirs to provide their own drinking water on the site.

I have added the project applicant's representative, Seth Martinez, to this email as well in the case you require more project information.

Best regards,
Thai

From: Le, Thai-Chau
Sent: Thursday, September 9, 2021 12:39 PM
To: Schmitz, Lori@Waterboards <Lori.Schmitz@waterboards.ca.gov>
Subject: RE: 1436 State Street Project (SP18-058/ER21-110), Reservoirs Question to Understand the Project

Hi Lori,

Let me check in with the project manager and project applicant on this information and connect you with them.

Best regards,
Thai

From: Schmitz, Lori@Waterboards [<mailto:Lori.Schmitz@waterboards.ca.gov>]
Sent: Thursday, September 9, 2021 12:09 PM
To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Subject: 1436 State Street Project (SP18-058/ER21-110), Reservoirs Question to Understand the Project

You don't often get email from lori.schmitz@waterboards.ca.gov. [Learn why this is important](#)

[External Email]

Thai-Chau,

I was wondering if you would be able to provide me with some information on the 1436 State Street Project (SP18-058/ER21-110). I am screening for projects that may need a water supply permit form our Division of Drinking Water. The 1436 State Street Project includes the installation of new storage tanks, but does not indicate what they will be used for. It appears that the site falls within the City of San Jose-NSJ/Alviso boundary water system area (4310019), so I would think Pacific Surfacing, Inc. would be connected to that water system and would not be installing the reservoirs to provide their own drinking water for their workers on the site, but I wanted to confirm this.

When screening the document, I didn't find any information on the purpose of the reservoirs and the designs included in the document didn't seem to include them either. If they are creating their own water system for serving water and other uses on the property, we would need to know the number of connections and people served to understand if the County of Santa Clara is the regulating agency, the State Water Board is the regulating agency, or if it is small enough it may be unregulated. If the reservoirs are for another purpose, and they are provided drinking water by the city, please let me know.

Given the deadline for comments on the document, the sooner you can provide this information the better, so we know our regulatory authority regarding the Project and if we need to have more information regarding this authority addressed in the document.

Thanks for any information on this!

Lori Schmitz

Lori Schmitz
State Water Resources Control Board

Division of Financial Assistance
Special Project Review Unit
Lori.Schmitz@waterboards.ca.gov

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Le, Thai-Chau

From: Mark Espinoza <esp_jkclaw@yahoo.com>
Sent: Thursday, September 30, 2021 11:49 AM
To: Le, Thai-Chau
Cc: District4; Shani Kleinhaus; Eileen McLaughlin
Subject: Re: 1436 State street Alviso

[External Email]

Hi Thai

I'd like this article to be added to the comment period for the 1436 State street project.

I believe the studies have not addressed the cumulative impact associated with this project. There are many other PM sources that are present within a 1000 feet of the project but have yet to be considered when the analysis generated their reports. Thereby producing a flawed inaccurate report.

<https://pubmed.ncbi.nlm.nih.gov/21555471/>

On Sep 28, 2021, at 10:54 AM, Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov> wrote:

Hi Mark,

Public request received.

I have also added Laura Meiner who is the PM as she will be coordinate any notices for the project in the future.

I will keep you on our list for any CEQA notices.

Best regards,
Thai

-----Original Message-----

From: Mark Espinoza [mailto:esp_jkclaw@yahoo.com]
Sent: Tuesday, September 28, 2021 10:50 AM
To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Cc: mrw@mrwolfeassociates.com; claucella@pacificsurfacing.com
Subject: Re: 1436 State street Alviso

[You don't often get email from esp_jkclaw@yahoo.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification.>]

[External Email]

Hi Thai Chau

I like to be noticed on any new updates or changes to project here in Alviso.

Thanks
Mark Espinoza
OCA President
408-624-7660

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Article in *Health Affairs* · May 2011

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A novel method for combining phthalates in a cumulative framework: Implications for exposure disparities and intervention opportunities [View project](#)



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Health Affairs

At the Intersection of Health, Health Care and Policy

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By Rachel Morello-Frosch, Miriam Zuk, Michael Jerrett, Bhavna Shamasunder, and Amy D. Kyle

Understanding The Cumulative Impacts Of Inequalities In Environmental Health: Implications For Policy

DOI: 10.1377/hlthaff.2011.0153
HEALTH AFFAIRS 30,
NO. 5 (2011): 879-887
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The People-to-People Health
Foundation, Inc.

ABSTRACT Racial or ethnic minority groups and low-income communities have poorer health outcomes than others. They are more frequently exposed to multiple environmental hazards and social stressors, including poverty, poor housing quality, and social inequality. Researchers are grappling with how best to characterize the cumulative effects of these hazards and stressors in order to help regulators and decision makers craft more-effective policies to address health and environmental disparities. In this article we synthesize the existing scientific evidence regarding the cumulative health implications of higher rates of exposure to environmental hazards, along with individual biological susceptibility and social vulnerability. We conclude that current environmental policy, which is focused narrowly on pollutants and their sources, should be broadened to take into account the cumulative impact of exposures and vulnerabilities encountered by people who live in neighborhoods consisting largely of racial or ethnic minorities or people of low socioeconomic status.

Rachel Morello-Frosch (rmf@berkeley.edu) is an associate professor in the Department of Environmental Science, Policy, and Management and in the School of Public Health at the University of California (UC), Berkeley.

Miriam Zuk is a graduate student in city and regional planning at UC Berkeley.

Michael Jerrett is an associate professor in the Division of Environmental Health Sciences at the School of Public Health, UC Berkeley.

Bhavna Shamasunder is a graduate student in the Department of Environmental Science, Policy, and Management at UC Berkeley.

Amy D. Kyle is an associate adjunct professor in the Division of Environmental Health Sciences, School of Public Health, UC Berkeley.

The persistence of health disparities and environmental inequalities in the United States has placed environmental health science and policy at a crossroads. Innovative scientific and regulatory approaches are needed to understand and address the cumulative, and potentially synergistic, effects of environmental and social stressors on the health of communities whose populations are mostly composed of racial or ethnic minorities or people of low socioeconomic status.

Advocates for such communities have long argued that their neighborhoods are beset by multiple environmental stressors, which could include air and water pollution and substandard housing. These community leaders also contend that existing regulations fail to protect residents adequately because the regulations are focused narrowly on pollutants and their sources.¹ Growing evidence shows that social stressors—including

poverty, racial discrimination, crime, malnutrition, and substance abuse—also affect these communities.² Research is beginning to show how the cumulative effects of social and environmental stressors can work in combination to produce health disparities.³

With encouragement from scientists, policy makers, and environmental justice groups, regulatory agencies are beginning to consider the methodological challenges of addressing cumulative impacts in science and decision making.⁴⁻⁶ These methodological challenges include how to evaluate and characterize the combined health effects of multiple environmental and social stressors on vulnerable populations, including the stressors' sources and the pathways of diseases. For example, the US Environmental Protection Agency has proposed a model for including psychological and social factors as integral components of cumulative risk assessment for predicting the potential health effects of pollu-

tion exposures in vulnerable populations.⁷

This article presents a synthesis of relevant research from the fields of social and environmental epidemiology, exposure assessment, and environmental justice. We believe that four key concepts underlie the emerging knowledge about the cumulative impacts of exposure to environmental hazards and social stressors.

First, health disparities between groups of different racial or ethnic makeup or socioeconomic status are significant and persistent, and exist for diseases that are linked to social and environmental factors. Second, inequalities in exposures to environmental hazards are also significant and persistent, and are linked to adverse health outcomes. Third, intrinsic biological and physiological factors—for example, age or genetic makeup—can modify the effects of environmental factors and contribute to differences in the frequency and severity of environmentally related disease. And fourth, extrinsic social vulnerability factors at the individual and community levels—such as race, sex, and socioeconomic status—may amplify the adverse effects of environmental hazards and can contribute to health disparities.

We highlight the evidence for these four concepts and conclude with a discussion of how this scientific foundation can help reshape regulatory science and decision making to reduce environmental health disparities and promote environmental justice among diverse communities.

Health Disparities

Research has documented systemic disparities in the incidence and severity of diseases between socioeconomic and racial or ethnic groups. A wide range of material, behavioral, psychosocial, environmental, and biological factors have been proposed to explain why social status is persistently linked to health.² Three health outcomes have been shown to be associated with both social and environmental stressors: adverse perinatal outcomes such as low birthweight and prematurity, cardiovascular disease, and self-rated health.

PERINATAL OUTCOMES African American infants are more likely to be delivered preterm and have low birthweight than white infants. These differences can result in higher risks of long-term health problems such as cognitive deficits, cardiovascular disease, and diabetes.⁸ Socioeconomic and behavioral factors such as the mother's education, access to prenatal care, and substance use have been shown to contribute to poor perinatal outcomes—again, low birthweight and prematurity among them.⁸ Research also indicates that prenatal stress result-

ing from maternal perceived discrimination, neighborhood deprivation, segregation, and income inequality are also linked to these poor perinatal outcomes, which suggests the importance of psychosocial pathways in the production of these racial or ethnic disparities.^{9,10}

CARDIOVASCULAR DISEASE African Americans and people of low socioeconomic status have significantly higher rates of hypertension, heart disease, and stroke than whites and people of higher socioeconomic status.¹¹ Cardiovascular disease disparities have been linked to differences in biological risk factors such as diabetes, behavior such as physical inactivity, and the availability and use of primary and secondary preventive services.¹² Neighborhood environments have been linked to both the prevalence of heart disease and its risk factors.¹³ Environmental pollutants, such as lead and ambient particulate matter—for example, extremely fine particles released into the air by vehicles and industrial plants that burn fossil fuels—have been linked to higher risk of cardiovascular disease.^{14,15}

Emerging research has also linked the risk of developing cardiovascular disease in adulthood to early life events such as prenatal stress, which can disrupt development and cause heritable changes in gene expression. These so-called epigenetic changes can affect which genes are switched “on” or “off,” which in turn can be associated with heightened disease risk.¹⁶

SELF-RATED HEALTH Self-rated health—a well-validated predictor of mortality, physical disability, chronic disease status, and health behavior¹⁷—is lower among racial and ethnic minorities and people of low socioeconomic status than others.¹⁸ Researchers have found that racial disparities in self-rated health persist even after differences in socioeconomic status are controlled for.¹⁹ The neighborhood people live in has been found to account for a large portion of the disparities between the way African Americans and whites rate their own health status.²⁰ This difference may be related to factors such as individual socioeconomic status, perceptions of neighborhood quality, health behavior, environmental quality, and psychosocial stress.²¹

Environmental Hazard Inequalities

Greater exposure to environmental hazards is one driver of health disparities found among communities of racial or ethnic minorities and those of low socioeconomic status. Research in this field has expanded from an initial focus on how close residents live to an environmental hazard, such as a highway or a major industrial facility, to encompass a broader investigation of

Poor communities suffer from a dearth of health-promoting resources.

the role that place plays in health. For example, a poor community populated by racial or ethnic minorities may also lack healthy food options,²² high-quality green spaces, and recreational programs.²³ The lack of these positive factors can contribute to poor health.

PROXIMITY TO POLLUTING LAND USES AND TOXIC EMISSIONS Numerous studies have documented the disproportionate location of hazardous waste sites, industrial facilities, sewage treatment plants, and other locally undesirable and potentially polluting land uses in communities of racial or ethnic minorities and in socially disadvantaged neighborhoods.^{24–26} Residents living near such facilities can be exposed to more pollutants than people who live in more affluent neighborhoods located farther from these sources of pollution.²⁷

The residents of communities near industrial and hazardous waste sites experience an increased risk of adverse perinatal outcomes, respiratory and heart diseases, psychosocial stress, and mental health impacts.^{28,29} Members of racial or ethnic minority groups and people of low socioeconomic status are also more likely than others to live near busy roads, where traffic-related air pollutants concentrate.³⁰ Research has linked a wide array of adverse health outcomes to residential proximity to traffic, including asthma,³¹ low birthweight,³² cardiovascular disease,³³ and premature mortality.³⁴

EXPOSURES TO POLLUTANTS The poor and racial or ethnic minorities are disproportionately exposed to ambient air pollutants, which have been linked to respiratory and cardiovascular disease, adverse perinatal outcomes, diabetes, premature mortality, and other adverse effects.^{35–38} Indoor environments also contribute to exposure disparities. Studies have found higher levels of indoor pollutants such as lead-based paint³⁹ and pollutants from industrial and transportation sources⁴⁰ in poor, African American, and Hispanic households than in other households.

Occupational exposures also constitute a source of environmental inequalities. For instance, Mexican American farm workers experi-

ence heightened exposure to organophosphate pesticides, which are associated with increased risk of cancer; preterm birth; and neurological, cardiovascular, and respiratory diseases.⁴¹

NEIGHBORHOOD ENVIRONMENTS Poor communities have an excess of health-damaging factors and a shortage of health-promoting amenities.⁴² For example, residents of disadvantaged neighborhoods are exposed to more fast-food restaurants⁴³ and liquor stores than members of other communities. In particular, the presence of neighborhood liquor stores can influence health behavior and violence and can affect health both directly and indirectly.⁴⁴

As noted above, poor communities also suffer from a dearth of health-promoting resources such as healthy food,²² green spaces, and recreational programs,²³ whose lack can contribute to disparities in obesity rates and stress levels.^{45,46} The confluence of these and other place-based factors contribute to the association between neighborhood socioeconomic status and adverse health outcomes.²⁰

Intrinsic Factors: Biological Susceptibility

We use the term *susceptibility* to refer to intrinsic biological traits related to age, genetics, or pre-existing health conditions that can create much variability in response to environmental stressors within a population.

AGE Children and the elderly experience heightened risk of pollution-related morbidity and mortality. The elderly are more susceptible to pollutant exposures because of their altered immune response and weakened respiratory and cardiovascular systems.⁴⁷ Children's susceptibility is associated with differences in rates of absorption, distribution, metabolism, and excretion of chemicals.⁴⁸ Exposure to stressors during childhood can greatly affect the development and functioning of organ systems well into adulthood.⁴⁹ Children have the potential for increased exposures to pollution because of their physical and behavioral activities, such as playing outside and frequent hand-to-mouth activity. Thus, their biological susceptibility combined with greater exposure to potentially toxic substances may put them at increased risk.

GENETICS AND GENE EXPRESSION Studies have found that certain genetic variants increase the effect of air pollution on respiratory symptoms, lung functioning, and asthma.⁵⁰ Where a child lives early in life, and the substances he or she is exposed to, can affect the development of disease in later life. These exposures may modify the patterns of gene expression—that is, turn genes “on” or “off”—which in turn triggers physiologic

changes and can potentially launch disease processes such as asthma or cancer.¹⁶

PREEXISTING HEALTH CONDITIONS Preexisting health conditions including diabetes, obesity, and cardiovascular disease can increase individual susceptibility to pollutant exposures. Studies have found that people with diabetes or a history of myocardial infarction are at heightened risk of cardiovascular morbidity and mortality associated with exposure to particulate matter.^{51,52} In the United States, African Americans, Hispanics, and people of low socioeconomic status have higher rates of obesity, cardiovascular disease, and type 2 diabetes and are therefore more susceptible to environmental stressors.^{11,53} Research is just beginning to link these disparities in preexisting conditions with neighborhood conditions.⁴⁵

Extrinsic Factors: Social Vulnerability

We use the term *vulnerability* when describing how social constructs of race and class can amplify the effects of environmental exposures, with a focus on the pathway of psychosocial stress. We classify race as a social construct and not as a proxy for biological differences because research has consistently shown that race is a poor indicator for genetic variation in human populations and therefore should be understood as a social rather than biological category.⁵⁴

Studies are uncovering the heightened vulnerability of people who belong to racial or ethnic minority groups or are of low socioeconomic status to environmental agents—a disparity that is not attributable to biological factors. Extrinsic factors that are socially related—such as race, ethnicity, socioeconomic status, and sex—can enhance the adverse effects of environmental exposures, such as short- and long-term exposures to air pollution.⁵⁵ Low neighborhood-level socioeconomic status may also amplify the risk of air pollution–related preterm births,⁵⁶ lower birthweight,⁵⁷ and adult mortality.⁵⁸

Psychosocial pathways may link race and socioeconomic measures at the individual and area levels with the increased adverse impacts of environmental stressors. For example, studies indicate that exposure to violence and family stress increases the effects of traffic-related air pollution exposures on childhood asthma.^{59,60} Low socioeconomic status and race or ethnicity have been linked to perceived stress as well as to biological markers of chronic stress.⁶¹

In addition to the direct effects of discrimination, social exclusion, and low socioeconomic status, the social and physical conditions of disadvantaged neighborhoods are also thought to

Preexisting health conditions can increase individual susceptibility to pollutant exposures.

contribute to psychosocial stress levels.³ Researchers have proposed that the cumulative biological burden exacted by ongoing disruption of the body's stress-response system may explain the self-reinforcing effects or synergies observed among environmental and psychosocial stressors and may produce health disparities.^{62,63}

The cumulative physiological “wear and tear” resulting from chronic overactivity of the body's stress-response system may impair immune functioning and increase vulnerability to stressors⁶⁴ by increasing the absorption of toxicants into the body through increased respiration, perspiration, and consumption;⁶⁵ compromising the body's defense systems against toxicants; affecting the same physiological processes as environmental agents; and directly causing illness.⁶²

Discussion

We have synthesized the scientific evidence underlying the cumulative impacts of environmental and social stressors and the multiple ways they can have a greater impact on communities of people who belong to racial or ethnic minority groups or are of low socioeconomic status. The four concepts of cumulative impacts that we outlined above have complex interrelationships and feedback loops (see the Appendix).⁶⁶

Regulatory science and decision making must better integrate these four elements of cumulative impacts as a result of combined exposures, possible overlapping mechanisms and pathways for adverse health effects, and the potential for synergistic effects.⁷ The National Research Council has also supported expanding scientific efforts to understand and address the multiple environmental and social stressors affecting community health.⁶⁷

CUMULATIVE IMPACT ASSESSMENTS Regulatory agencies at the federal, state, and local levels are beginning to incorporate elements of cumulative impacts such as those described above into

The burden of proof is now placed on communities to demonstrate cumulative impacts.

assessment and planning procedures.^{4,6} Nevertheless, the complexity of the task and the scarcity of scientific information and specific methodologies for assessing these cumulative effects have limited the scope of this work to date.⁶⁷

One important challenge is how to characterize and mathematically model the interactions among environmental and social stressors, sources, pathways, and routes. Researchers are beginning to develop indices for aggregating environmental and social stressors. For example, Jason Su and colleagues developed an index to characterize social inequities in the cumulative effects of multiple air pollutants from both mobile and stationary sources at the regional level.⁶⁸ Still, the work to develop more sophisticated tools for assessing cumulative impacts and environmental disparities is in its infancy, and investigators are uncertain about the best way to cumulate and deal with interactions and overlapping components or pathways.

Fundamental to further work in this area is the need to better incorporate vulnerability into environmental health research, assessments, policies, and actions.¹ Current risk assessment practices address differential susceptibility for certain intrinsic biological factors (for example, age) by applying safety or default factors to protect biologically sensitive populations (such as children) in limited cases. However, the environmental risk assessment process does not apply such approaches to extrinsic factors—including neighborhood poverty, unemployment, lack of food security, and other psychosocial stressors—that can contribute to the heightened vulnerability of disadvantaged communities).^{1,7,67} One potential reason for this omission is the persistent debate over pathways linking social vulnerability to environmental exposures. Researchers have established many dimensions of social vulnerability such as human and political capital, discrimination, and features of the built environment,² which should be taken into account in environmental health research and assessment practices.

Health impact assessment is an interdisciplinary approach to assessing the consequences of proposed policies, plans, and projects. This type of assessment features an explicit concern for socially excluded or vulnerable populations and uses a combination of quantitative, qualitative, and participatory techniques.^{68–70} Health impact assessment may provide a promising path for incorporating cumulative impacts into assessments to guide decision making.

By considering together the baseline environmental conditions, health status, and vulnerabilities of the communities potentially affected by decisions, health impact assessments have the potential to address the complex causal pathways through which decisions can affect health.⁷¹ Compared to risk assessment, which is mostly quantitative, health impact assessment is better able to deal with a scarcity of scientific information because it uses a diverse array of evidence for analysis—for example, epidemiological evidence along with qualitative observations of neighborhood social conditions and physical environments.

The inclusion of a broader array of evidence may result in more efficient and proactive measures than risk assessments, which rely heavily on toxicological evidence.^{71,72} A key challenge, however, will be systematically integrating the health impact assessment process into environmental regulation and decision making.

POLICIES TO ADDRESS CUMULATIVE IMPACTS

The evidence that environmental and social stressors converge in disadvantaged communities and that residential context plays an important and independent role in health disparities indicates the need for targeted place-based and proactive approaches to policy making. One approach is to use cumulative impact screening to map, characterize, and target vulnerable communities for interventions that improve existing conditions and prevent future harm.¹

The burden of proof is now placed on communities to demonstrate cumulative impacts, yet many disadvantaged neighborhoods may lack political clout or the capacity for civic engagement to push for regulatory action. The use of cumulative impact screening could remove this burden of proof from vulnerable communities and increase the likelihood that disadvantaged neighborhoods will receive focused regulatory attention.

Several agencies, such as the Environmental Protection Agency, are beginning to develop such tools to target enforcement and compliance activities nationally,⁷³ guide land use planning in California,⁷⁴ and inform regulatory programs at the California Air Resources Board.⁷⁵ As with health impact assessments, a critical issue will

be the linkage between assessments and the decision making authorities of the agencies.

Progressive approaches coming from local governments can provide some guidance for ways to systematically address cumulative impacts in vulnerable communities. The Environmental Justice Ordinance in Cincinnati, Ohio, for instance, requires new or expanding industrial facilities to demonstrate that they will not cause a "cumulative adverse impact" to the health and environment of the community in order to receive a permit.⁷⁶

Similarly, Los Angeles is considering a "green zones" ordinance, which would use cumulative impact screening to guide municipal planning, the issuing of permits, and enforcement strategies to mitigate and reduce environmental hazards in disproportionately affected neighborhoods.^{77,78} Such strategies could provide a more place-based, holistic, and proactive approach to environmental protection.

Conclusion

Communities of racial or ethnic minorities or people of low socioeconomic status are particularly vulnerable to environmental and social stressors. More holistic and transparent approaches to the regulatory science underlying decision making that affects such communities are needed. Screening methods can help regulators and policy makers more efficiently target efforts to remediate the cumulative effects of these exposures and environmental inequities, and to focus regulatory action at the neighborhood and regional levels. Because industrial and transportation development, as well as other land-use planning decisions, are often rooted within metropolitan regions and neighborhoods, regulatory interventions to mitigate the cumulative impact of environmental and social stressors on the health of disadvantaged communities will require multilevel, place-based strategies.⁷⁹ ■

This work was funded in part by the California Environmental Protection Agency, Office of Environmental Health Hazard Assessment (07-E0009,

Understanding and Acting on Cumulative Impacts on California Communities) and the Superfund Research Program of the National Institute of Environmental

Health Sciences. The authors thank Valerie Tran for assistance with preparing this manuscript.

NOTES

- 1 National Environmental Justice Advisory Council. Ensuring risk reduction in communities with multiple stressors: environmental justice and cumulative risks/impacts. Washington (DC): The Council; 2004.
- 2 Adler NE, Rehkopf DH. US disparities in health: descriptions, causes, and mechanisms. *Annu Rev Public Health*. 2008;29:235–52.
- 3 Clougherty J, Kubzansky L. A framework for examining social stress and susceptibility in air pollution and respiratory health. *Environ Health Perspect*. 2009;117(9):1351–8.
- 4 Environmental Protection Agency. Framework for cumulative risk assessment. Washington (DC): EPA; 2003.
- 5 National Environmental Justice Advisory Council. Nationally consistent environmental justice screening approaches. Washington (DC): The Council; 2010.
- 6 Office of Environmental Health Hazard Assessment. Environmental justice activities at OEHA: cumulative impacts and precautionary approaches [Internet]. Sacramento (CA): California Environmental Protection Agency; 2007 [cited 2011 Mar 31]. Available from: <http://oehha.ca.gov/ej/index.html>
- 7 DeFur PL, Evans GW, Cohen Hubal EA, Kyle AD, Morello-Frosch RA, Williams DR. Vulnerability as a function of individual and group resources in cumulative risk assessment. *Environ Health Perspect*. 2007;115(5):817–24.
- 8 Gisco CL, Lobel M. Explaining disproportionately high rates of adverse birth outcomes among African Americans: the impact of stress, racism, and related factors in pregnancy. *Psychol Bull*. 2005;131(5):662–83.
- 9 Mustillo S, Krieger N, Gunderson EP, Sidney S, McCreath H, Kiefe CI. Self-reported experiences of racial discrimination and black-white differences in preterm and low-birth-weight deliveries: the CARDIA study. *Am J Public Health*. 2004;94(12):2125–31.
- 10 Huynh M, Parker JD, Harper S, Pamuk E, Schoendorf KC. Contextual effect of income inequality on birth outcomes. *Int J Epidemiol*. 2005;34(4):888–95.
- 11 Mensah GA, Mokdad AH, Ford ES, Greenlund KJ, Croft JB. State of disparities in cardiovascular health in the United States. *Circulation*. 2005;111(10):1233–41.
- 12 Kaplan GA, Keil JE. Socioeconomic factors and cardiovascular disease: a review of the literature. *Circulation*. 1993;88(4):1973–98.
- 13 Diez-Roux AV, Nieto FJ, Muntaner C, Tyroler HA, Comstock GW, Shahar E, et al. Neighborhood environments and coronary heart disease: a multilevel analysis. *Am J Epidemiol*. 1997;146(1):48–63.
- 14 Navas-Acien A, Guallar E, Silbergeld E, Rothenberg SJ. Lead exposure and cardiovascular disease—a systematic review. *Environ Health Perspect*. 2007;115(3):472–82.
- 15 Pope CA 3rd, Burnett RT, Krewski D, Jerrett M, Shi Y, Calle EE, et al. Cardiovascular mortality and exposure to airborne fine particulate matter and cigarette smoke: shape of the exposure-response relationship. *Circulation*. 2009;120(11):941–8.
- 16 Kuzawa CW, Sweet E. Epigenetics and the embodiment of race: developmental origins of US racial disparities in cardiovascular health. *Am J Human Biol*. 2009;21(1):2–15.
- 17 Idler E, Benyamini Y. Self-rated health and mortality: a review of twenty-seven community studies. *J Health Soc Behav*. 1997;38:21–37.
- 18 Yao L, Robert SA. The contributions of race, individual socioeconomic status, and neighborhood socioeconomic context on the self-rated health trajectories and mortality of older adults. *Res Aging*. 2008;30(2):251–73.
- 19 Subramanian SV, Acevedo-Garcia D, Osypuk TL. Racial residential segregation and geographic heterogeneity in black/white disparity in poor self-rated health in the US: a multilevel statistical analysis. *Soc Sci Med*. 2005;60(8):1667–79.
- 20 Do DP, Finch BK, Basurto-Davila R, Bird C, Escarce J, Lurie N. Does place

- explain racial health disparities? Quantifying the contribution of residential context to the black/white health gap in the United States. *Soc Sci Med*. 2008;67(8):1258–68.
- 21 Wen M, Hawkey LC, Cacioppo JT. Objective and perceived neighborhood environment, individual SES and psychosocial factors, and self-rated health: an analysis of older adults in Cook County, Illinois. *Soc Sci Med*. 2006;63(10):2575–90.
 - 22 Morland K, Filomena S. Disparities in the availability of fruits and vegetables between racially segregated urban neighbourhoods. *Public Health Nutr*. 2007;10(12):1481–9.
 - 23 Dahmann N, Wolch J, Joassart-Marcelli P, Reynolds K, Jerrett M. The active city? Disparities in provision of urban public recreation resources. *Health Place*. 2009;16(3):431–45.
 - 24 Mohai P, Lanz PM, Morenoff J, House JS, Mero RP. Racial and socioeconomic disparities in residential proximity to polluting industrial facilities: evidence from the Americans' Changing Lives Study. *Am J Public Health*. 2009;99(Suppl 3):S649–56.
 - 25 Mohai P, Saha R. Racial inequality in the distribution of hazardous waste: a national-level reassessment. *Soc Probl*. 2007;54(3):343–70.
 - 26 Morello-Frosch R, Pastor M Jr., Porras C, Sadd J. Environmental justice and regional inequality in southern California: implications for future research. *Environ Health Perspect*. 2002;110(Suppl 2):149–54.
 - 27 Morello-Frosch RA. Discrimination and the political economy of environmental inequality. *Environ Planning C: Govern Policy*. 2002;20(4):477–96.
 - 28 Vrijheid M. Health effects of residence near hazardous waste landfill sites: a review of epidemiologic literature. *Environ Health Perspect*. 2000;108:101–12.
 - 29 Downey L, Willigen MV. Environmental stressors: the mental health impacts of living near industrial activity. *J Health Soc Behav*. 2005;46(3):289–305.
 - 30 Gunier RB, Hertz A, von Behren J, Reynolds P. Traffic density in California: socioeconomic and ethnic differences among potentially exposed children. *J Expo Anal Environ Epidemiol*. 2003;13(3):240–6.
 - 31 Gauderman WJ, Avol E, Lurmann F, Kuenzli N, Gilliland F, Peters J, et al. Childhood asthma and exposure to traffic and nitrogen dioxide. *Epidemiology*. 2005;16(6):737–43.
 - 32 Wilhelm M, Ritz B. Residential proximity to traffic and adverse birth outcomes in Los Angeles County, California, 1994–1996. *Environ Health Perspect*. 2003;111(2):207–16.
 - 33 Künzli N, Jerrett M, Garcia-Esteban R, Basagaña X, Beckermann B, Gilliland F, et al. Ambient air pollution and the progression of atherosclerosis in adults. *PLoS ONE*. 2010;5(2):e9096.
 - 34 Jerrett M, Finkelstein M, Brook J, Arain M, Kanaroglou P, Stieb D, et al. A cohort study of traffic-related air pollution and mortality in Toronto, Ontario, Canada. *Environ Health Perspect*. 2009;117(5):772–7.
 - 35 Brook RD, Jerrett M, Brook JR, Bard RL, Finkelstein MM. The relationship between diabetes mellitus and traffic-related air pollution. *J Occup Environ Med*. 2008;50(1):32–8.
 - 36 Brunekreef B, Holgate ST. Air pollution and health. *Lancet*. 2002;360(9341):1233–42.
 - 37 Jerrett M, Burnett RT, Kanaroglou P, Eyles J, Finkelstein N, Giovis C, et al. A GIS-environmental justice analysis of particulate air pollution in Hamilton, Canada. *Environment and Planning A*. 2001;33:955–73.
 - 38 Woodruff TJ, Parker JD, Kyle AD, Schoendorf KC. Disparities in exposure to air pollution during pregnancy. *Environ Health Perspect*. 2003;111(7):942–6.
 - 39 Jones RL, Homa DM, Meyer PA, Brody DJ, Caldwell KL, Pirkle JL, et al. Trends in blood lead levels and blood lead testing among US children aged 1 to 5 years, 1988–2004. *Pediatrics*. 2009;123(3):e376–85.
 - 40 Brody JG, Morello-Frosch R, Zota A, Brown P, Pérez C, Rudel RA. Linking exposure assessment science with policy objectives for environmental justice and breast cancer advocacy: the Northern California Household Exposure Study. *Am J Public Health*. 2009;99(Suppl 3):S600–9.
 - 41 Eskenazi B, Bradman A, Castorina R. Exposures of children to organophosphate pesticides and their potential adverse health effects. *Environ Health Perspect*. 1999;107:409–19.
 - 42 Teutsch S, Fielding J. Applying comparative effectiveness research to public and population health initiatives. *Health Aff (Millwood)*. 2011;30(2):349–55.
 - 43 Kwate NO, Yau CY, Loh JM, Williams D. Inequality in obesogenic environments: fast food density in New York City. *Health Place*. 2009;15(1):364–73.
 - 44 Wright RJ, Steinbach SF. Violence: an unrecognized environmental exposure that may contribute to greater asthma morbidity in high risk inner-city populations. *Environ Health Perspect*. 2001;109(10):1085–9.
 - 45 Gordon-Larsen P, Nelson MC, Page P, Popkin BM. Inequality in the built environment underlies key health disparities in physical activity and obesity. *Pediatrics*. 2006;117(2):417–24.
 - 46 Hartig T. Green space, psychological restoration, and health inequality. *Lancet*. 2008;372(9650):1614–5.
 - 47 Sandström T, Frew AJ, Svartengren M, Viegi G. The need for a focus on air pollution research in the elderly. *Eur Respir J Suppl*. 2003;40:92s–5s.
 - 48 Faustman EM, Silbernagel SM, Fenske RA, Burbacher TM, Ponce RA. Mechanisms underlying children's susceptibility to environmental toxicants. *Environ Health Perspect*. 2000;108:13–21.
 - 49 Gavidia TG, Pronczuk de Garbino J, Sly PD. Children's environmental health: an under-recognised area in paediatric health care. *BMC Pediatr*. 2009;9:10.
 - 50 Yang IA, Fong KM, Zimmerman PV, Holgate ST, Holloway JW. Genetic susceptibility to the respiratory effects of air pollution. *Thorax*. 2008;63(6):555–63.
 - 51 Zanobetti A, Schwartz J. Are diabetics more susceptible to the health effects of airborne particles? *Am J Respir Crit Care Med*. 2001;164(5):831–3.
 - 52 Zanobetti A, Schwartz J, Gold D. Are there sensitive subgroups for the effects of airborne particles? *Environ Health Perspect*. 2000;108(9):841–5.
 - 53 Wang Y, Beydoun MA. The obesity epidemic in the United States—gender, age, socioeconomic, racial/ethnic, and geographic characteristics: a systematic review and meta-regression analysis. *Epidemiol Rev*. 2007;29:6–28.
 - 54 Krieger N. Stormy weather: race, gene expression, and the science of health disparities. *Am J Public Health*. 2005;95(12):2155–60.
 - 55 O'Neill MS, Jerrett M, Kawachi I, Levy JI, Cohen AJ, Gouveia N, et al. Health, wealth, and air pollution: advancing theory and methods. *Environ Health Perspect*. 2003;111(16):1861–70.
 - 56 Ponce NA, Hoggatt KJ, Wilhelm M, Ritz B. Preterm birth: the interaction of traffic-related air pollution with economic hardship in Los Angeles neighborhoods. *Am J Epidemiol*. 2005;162(2):140–8.
 - 57 Morello-Frosch R, Jesdale B, Sadd J, Pastor M. Ambient air pollution exposure and full-term birth weight in California. *Environ Health*. 2010;9:44.
 - 58 Finkelstein MM, Jerrett M, DeLuca P, Finkelstein N, Verma DK, Chapman K, et al. Relation between income, air pollution, and mortality: a cohort study. *CMAJ*. 2003;169(5):397–402.
 - 59 Clougherty JE, Levy JI, Kubzansky LD, Ryan PB, Suglia SF, Canner MJ, et al. Synergistic effects of traffic-related air pollution and exposure to violence on urban asthma etiology. *Environ Health Perspect*. 2007;115(8):1140–6.
 - 60 Shankardass K, McConnell R, Jerrett M, Milam J, Richardson J, Berhane K. Parental stress increases the effect

- of traffic-related air pollution on childhood asthma incidence. *Proc Natl Acad Sci U S A*. 2009;106(30):12406–11.
- 61 Goodman E, McEwen BS, Huang B, Dolan LM, Adler NE. Social inequalities in biomarkers of cardiovascular risk in adolescence. *Psychosom Med*. 2005;67(1):9–15.
- 62 Gee G, Payne-Sturges D. Environmental health disparities: a framework integrating psychosocial and environmental concepts. *Environ Health Perspect*. 2004;112(17):645–53.
- 63 Morello-Frosch R, Shenassa ED. The environmental “risky” and social inequality: implications for explaining maternal and child health disparities. *Environ Health Perspect*. 2006;114(8):1150–3.
- 64 McEwen BS. Protective and damaging effects of stress mediators. *N Engl J Med*. 1998;338(3):171–9.
- 65 Gordon CJ. Role of environmental stress in the physiological response to chemical toxicants. *Environ Res*. 2003;92(1):1–7.
- 66 To access the Appendix, click on the Appendix link in the box to the right of the article online.
- 67 National Research Council Committee on Improving Risk Analysis Approaches Used by the US EPA. *Science and decisions: advancing risk assessment*. Washington (DC): National Academies Press; 2009.
- 68 Su J, Morello-Frosch R, Jesdale B, Kyle AD, Shamasunder B, Jerrett M. An index for assessing demographic inequalities in cumulative environmental hazards with application to Los Angeles, California. *Environ Sci Technol*. 2009;43(20):7626–34.
- 69 Cole BL, Wilhelm M, Long PV, Fielding JE, Kominski G, Morgenstern H. Prospects for health impact assessment in the United States: new and improved environmental impact assessment or something different? *J Health Polit Policy Law*. 2004;29(6):1153–86.
- 70 Corburn J, Bhatia R. Health impact assessment in San Francisco: incorporating the social determinants of health into environmental planning. *J Environ Plann Man*. 2007;50(3):323–41.
- 71 Bhatia R. A guide for health impact assessment [Internet]. San Francisco (CA): Department of Public Health; 2009 [cited 2011 Apr 1]. (Working draft provided for review and use by the California Department of Public Health). Available from: http://www.arb.ca.gov/cc/ab32publichealth/meetings/091409/hia_guidelines_sept_04_09.pdf
- 72 Levy J. Is epidemiology the key to cumulative risk assessment? *Risk Anal*. 2008;28(6):1507–13.
- 73 Environmental Protection Agency. The Environmental Justice Strategic Enforcement Assessment Tool (EJ-SEAT) [Internet]. Washington (DC): EPA; 2011 Mar 15 [cited 2011 Apr 1]. Available from: <http://www.epa.gov/environmentaljustice/resources/policy/ej-seat.html>
- 74 California Air Resources Board. Air quality and land use handbook: a community health perspective. Sacramento (CA): The Board; 2005.
- 75 Pastor M Jr., Morello-Frosch R, Sadd J. Air pollution and environmental justice: integrating indicators of cumulative impact and socio-economic vulnerability into regulatory decision-making [Internet]. Sacramento (CA): California Air Resources Board; 2010 [cited 2011 Apr 1]. (Final Report, Contract No.: 04-308). Available from: <http://www.arb.ca.gov/research/apr/past/04-308.pdf>
- 76 City of Cincinnati. Ordinance 210–2009 [Internet]. Cincinnati (OH): City of Cincinnati; 2009 Jun 29 [cited 2011 Apr 29]. Available from: <http://www.vorysenergy.com/uploads/file/26337.pdf>
- 77 Osborn B. News from the frontlines: L.A. poised to deal with hidden hazards. Liberty Hill [blog on the Internet]. 2011 Jan 21 [cited 2011 Apr 1]. Available from: <http://libertyhill.typepad.com/main/2011/01/la-poised-to-deal-with-hidden-hazards.html>
- 78 Sahagun L. Turning toxic hotspots green. *Los Angeles Times*. 2011 Jan 21.
- 79 Pastor M, Dreir P, Grigsby J, Lopez-Garza M. *Regions that work: how cities and suburbs can grow together*. Minneapolis (MN): University of Minnesota Press; 2000.

ABOUT THE AUTHORS: RACHEL MORELLO-FROSCH, MIRIAM ZUK, MICHAEL JERRETT, BHAVNA SHAMASUNDER & AMY D. KYLE



Rachel Morello-Frosch is an associate professor at the University of California, Berkeley.

In this issue of *Health Affairs*, Rachel Morello-Frosch and coauthors make the case that regulators need to consider the cumulative effects of various environmental and social stressors on poorer communities or those populated by racial and ethnic minorities. It's not enough to look just at the impact of exposure to a particular chemical, for example. Studies have found that chronic social stress, such as being poor or being discriminated against racially, can make individuals and communities more vulnerable to environmental hazards.

Yet "policy makers have been slow to respond to the scientific evidence," Morello-Frosch says. She hopes that this article will encourage them to take a broader view of the causes of health concerns and look into the cumulative effect of various

stressors.

Morello-Frosch is an associate professor at the University of California (UC), Berkeley, in both the Department of Environmental Science, Policy, and Management and the School of Public Health. She received both her doctoral degree in environmental health sciences and her master of public health degree in epidemiology and biostatistics from UC Berkeley. In 2010 she was awarded the American Public Health Association's Damu Smith environmental health achievement award.



Miriam Zuk is a graduate student in city and regional planning at UC Berkeley.

Miriam Zuk is a doctoral candidate in city and regional planning at the University of California, Berkeley.

Michael Jerrett is an associate professor in the Division of Environmental Health Sciences at

the UC Berkeley School of Public Health. He received both his doctorate in geography and his master's degree in political science from the University of Toronto. In 2010 he was appointed to the National Academies Committee on Human and Environmental Exposure Science in the Twenty-First Century.



Bhavna Shamasunder is a graduate student in the Department of Environmental Science, Policy, and Management at UC Berkeley.

Bhavna Shamasunder expects to receive her doctoral degree from the Department of Environmental Science, Policy, and Management at UC Berkeley in May 2011.

Amy Kyle is an associate adjunct professor in environmental health sciences at the UC Berkeley School of Public Health. She received both her doctorate in environmental health sciences and her master of public health degree from UC Berkeley.

Le, Thai-Chau

From: Mark Espinoza <esp_jkclaw@yahoo.com>
Sent: Friday, October 1, 2021 8:49 PM
To: Le, Thai-Chau
Subject: project proposal @1436 State Street

[External Email]

[Download full resolution images](#)
[Available until Oct 31, 2021](#)

Hi

I'd like to submit the attached photographs to illustrate the current damaged street @1592 Grand blvd. where I reside. The first photograph is of a nondamaged roadway located @1235 Wabash Street. As evident there is no damage to the asphalt. Whereas the following photographs located @1592 Grand Blvd we can see the entire section of roadway distressed due to traffic loading. Which means heavy loaded truck traffic.

Your applicant wishes to have this damage continue with the added truck traffic in his proposed project. Why has this not been included in the studies provided. I would request for this project to complete an EIR because there are more impacts found that have not been discussed, studies, and or evaluated.

I can already identify disparities given we are a low income community a community of minorities.

Thanks
OCA President

















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Le, Thai-Chau

From: Marcos Espinoza <mte9065@gmail.com>
Sent: Sunday, October 3, 2021 7:12 PM
To: Le, Thai-Chau
Subject: Proposed project in Alviso

[You don't often get email from mte9065@gmail.com. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

[External Email]

Dear Thai,

My name is Marcos Espinoza and I am a resident of Alviso Ca. I'm am opposed to the proposed project at the site of 1436 State Street Alviso Ca 95002. I oppose this project due to many reasons. The first being the environmental impact this will cause to Alviso residents. Allowing diesel trucks to operate within a small community impacts the health and well being of the community. There are multiple student bus stops close to this site and this will affect the kids who use the bus service. Also the site will operate as an asphalt company. Asphalt produces toxic air with is known to be carcinogenic. To allow an asphalt company to operate literally in front of people houses is wrong. There are many other businesses that operate on state street that are illegal and any study that may be done does not take into account the overall impact of all of those businesses plus the new proposed project.

Thanks,

Marcos Espinoza
Mte9065@gmail.com
408-600-6328

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Le, Thai-Chau

From: Mark Espinoza <esp_jkclaw@yahoo.com>
Sent: Sunday, October 3, 2021 5:40 PM
To: Le, Thai-Chau
Subject: Re: 1436 State street project in Alviso

[External Email]

Hi Thai,

Please submit this into the record for additional comments:

- The IS/MND is vague about what activities will be taking place at the site once construction is complete. The IS/MND repeatedly describes the project as “interior improvements of the existing building on the site, repaving and striping the site, rebuilding an existing utility building, a new exterior storage equipment area and the reconfiguration of the gates.” This is an inadequate project description. The IS/MND must be revised and recirculated to thoroughly and accurately explain what activities will occur over the project’s life time that might affect air quality, noise, greenhouse gas emissions, and any other environmental impact category.
- The IS/MND appears to evaluate potential health impacts to local residents from exposure to diesel exhaust emissions during project construction, which will be of short duration, but does not do so for emissions during project operation, which will be long-term. Long-term exposure to diesel exhaust can cause serious health problems, especially in children. This is especially true when there are already significant levels of toxic air pollutant emissions in the area, which is the case for Alviso. The IS/MND needs to consider health risks from adding this project’s emissions to existing pollution levels.
- The noise assessment simply reports sound measurements taken at the applicant’s Fremont facility on 2 days in 2019. There is no indication or explanation to establish that these measurements are in any way representative of what would occur at the Alviso site.

The City should revise the IS/MND to address the deficiencies described above before it can approve this project.

Thank You
Mark Espinoza
OCA President

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Le, Thai-Chau

From: Le, Thai-Chau
Sent: Monday, November 29, 2021 12:06 PM
To: Mark Espinoza
Subject: RE: State Street paving development in Alviso

Hi Mark,

This has been submitted for record. Thank you for your comments.

Best regards,
Thai

From: Mark Espinoza [mailto:esp_jkclaw@yahoo.com]
Sent: Friday, November 26, 2021 3:09 PM
To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Subject: Re: State Street paving development in Alviso

[External Email]

Hi Thai

I'd like to submit these images for the director hearing on Monday the 29, 2021. These photos depict the conditions of the applicants current property that is occupied by his business equipment. It would be unacceptable and an environmental injustice for a community of color to be subjected to being forced to be burdened by the applicants business practices such as the use for stock piling solid waste including hazardous materials, not to mention the years of oil stains. I also like to mention Alviso is in a flood zone and storing large tanks with hazardous liquids is a recipe for an environmental disaster in the event Alviso experiences another flood.

Will the city take the responsibility for environmental clean up by approving such a business with hazardous materials? The analysis never take into account worst case scenario in the event of flood.

Please submit this for the record.

Thank you
Mark Espinoza
OCA President
408-624-7660

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Le, Thai-Chau

From: Le, Thai-Chau
Sent: Monday, November 29, 2021 11:23 AM
To: Mark Espinoza
Cc: Meiners, Laura
Subject: RE: Automatic reply: State Street paving development in Alviso

Hi Mark,

I received your additional comments on the project in the previous email. This item is to be heard at Director's Hearing on 12/8 at 9:00am now. The draft permit and agenda will be posted a week before the hearing here:

<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/commissions-and-hearings/planning-director-hearings/agendas-minutes-2021/-fsiteid-1>

Best regards,
Thai

From: Mark Espinoza [mailto:esp_jkclaw@yahoo.com]
Sent: Monday, November 29, 2021 11:14 AM
To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Subject: Re: Automatic reply: State Street paving development in Alviso

[External Email]

Hi Thai

Can you update me on the new hearing date?

Also I've submitted photos and comments for planning director and staff.

On Nov 26, 2021, at 3:09 PM, Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov> wrote:

Hello,

Thank you for your email! I am out of the office and will return on Monday 11/29/2021. Please contact your Environmental Project Manager for any questions about projects.

The City is also closed on Thursday 11/25/2021 and Friday 11/26/2021 in observance of Thanksgiving holiday.

Best regards,
Thai

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Le, Thai-Chau

From: Ada Marquez <ada.marquez@sjsu.edu>
Sent: Wednesday, December 8, 2021 8:00 AM
To: Le, Thai-Chau; Ada Marquez
Subject: ALVISO-State Street IS/MND COMMENT LETTER
Attachments: StateStreetMND_Comment-12-8-2021_Marquez.pdf

[External Email]

Dear Thai,
Please accept my attached comment letter for today's Planning Hearing.
Thank you,
Ada

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

December 8, 2021

Thai-Chau Le
CEQA Planning Supervisor
200 E. Santa Clara Street
San Jose, CA 95113
Thai-Chau.Le@sanjoseca.gov

Re: 1436 State Street Project Initial Study/Mitigated Negative Declaration **FILE NOS: H21-049 (FORMERLY SP18-058) AND ER21-110)**

Dear Ms. Thai-Chau Le:

This comment letter includes both the ethical, but non-CEQA issues and potential CEQA impacts inadequately analyzed in the Initial Study/MND. Currently the community of Alviso has at least a dozen construction type of land-uses. This proposed corporation yard/ warehouse project with 5 light duty trucks (10 daily), 9 medium duty trucks (18 daily), 7 heavy duty trucks (14 daily), and 5 personal vehicles (52 daily) trucks will have approximate 94 daily vehicle trips. Although this project incrementally is less than significant with mitigation incorporated, the small community of Alviso is cumulatively and disproportionately burden with environmental impacts.

Cumulative Air Quality Impacts for Sensitive Receptors and MANDATORY FINDINGS OF SIGNIFICANCE

As you know, the BAAQMD is in the process of updating their CEQA thresholds.

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The 1436 State Street Project IS/MND did not adequately disclose that Alviso is designated as SB1000, SB 535 Disadvantaged Community, and AB1550 Low-Income (Figure 1). In addition, Alviso narrowly missed the

¹ [CEQA Guidelines Update \(baaqmd.gov\)](https://www.baaqmd.gov/CEQA-Guidelines-Update) date accessed December 8, 2021.

² Per (2021) CEQA 15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT

- (a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.
- (b) (2) Thresholds of significance, as defined in Section 15064.7(a), may assist lead agencies in determining whether a project may cause a significant impact. When using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project's impacts are less than significant. **Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating that the project's environmental effects may still be significant.**

CalEPA's top 30% percentile vulnerability rank of cumulative impacts via the CalEnviroScreen 4.0 screening tool (Figure 2).³ The Alviso residents are disproportionately affected by contamination, air pollution, and many cumulative environmental issues: the former South Bay Asbestos Area on the National Priority List (NPL), the Union Pacific Railroad, Highway 237, methane vapor from the Newby Island Landfill and Zanker Recycling Zero Waste Energy, the Calpine Energy Plant, facilities with hazardous wastes, large Google warehouses, the (Approved Development) Microsoft San Jose Data Center, the RWF Cogeneration Project for the San Jose/Santa Clara Water Pollution Control Plant (WPCP), and numerous unpermitted business with diesel trucks, Topgolf Entertainment Center's traffic impacts, and other proposed projects.⁴

With this evidence, an additional project condition should require a monitoring report that the truck traffic for the State Street Project does not use residential streets and do not exceed their daily vehicle trips. In addition, this project must implement per the California Attorney General's Bureau of Environmental Justice (Bureau) "*Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act*".⁵

Land-Use

Although the proposed project's zoning is consistent with the Alviso Master Plan and the General Plan, it does not environmentally reflect the significant changes and amendments to the General Plan over many years. Since the adoption of the General Plan in 2011, significant legislative laws have been approved such as SB 1000.⁶ As a City of San Jose resident, I hope City leaders and the Manager's Office of Racial Equity⁷ will soon implement SB 1000.⁸ Ethically, the City has an obligation to consider the disproportionate impacts to the Alviso residents.

Thank you,

Ada E. Márquez
3189 Salem Drive
San Jose, CA 95127

³ [CalEnviroScreen 4.0 | OEHHA](#)

⁴ [RWF Cogeneration Project | City of San Jose \(sanjoseca.gov\)](#) [San Jose City Data Center, Licensing Case - Docket # 2019-SPPE-04](#)

⁵ [Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act](#)

⁶ [Envision San José 2040 General Plan | City of San Jose \(sanjoseca.gov\)](#)

⁷ [Racial Equity | City of San Jose \(sanjoseca.gov\)](#)

⁸ Per CA State Attorney General "In 2016, the California Legislature passed Senate Bill (SB) 1000, codified at Government Code section 65302, subdivision (h), to incorporate environmental justice into the local land use planning process. SB 1000 requires local governments to address pollution and other hazards that disproportionately impact low-income communities and communities of color in their jurisdiction. If a local government adopts or updates two or more elements of its general plan after January 1, 2018, SB 1000 requires the local government to identify any "disadvantaged communities" within its planning area. (Gov. Code, § 65302, subds. (h)(1)–(2).) The law defines "disadvantaged communities" to include two identification methods: (1) "an area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the Health and Safety Code"; or (2) "an area that is low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation." (Gov. Code, § 65302, subd. (h)(4)(A).) If a local government identifies one or more disadvantaged communities in its planning area, its general plan must have either an "environmental justice element" or "related goals, policies, and objectives integrated in other elements" (collectively, "EJ policies") that "reduce the unique or compounded health risks in disadvantaged communities" by addressing eight different topics, such as reducing pollution exposure, promoting public improvements, promoting safe and sanitary homes, and promoting public engagement in the local decision making process. (Gov. Code, § 65302, subd. (h)(1).)" [SB 1000 - Environmental Justice in Local Land Use Planning | State of California - Department of Justice - Office of the Attorney General](#)

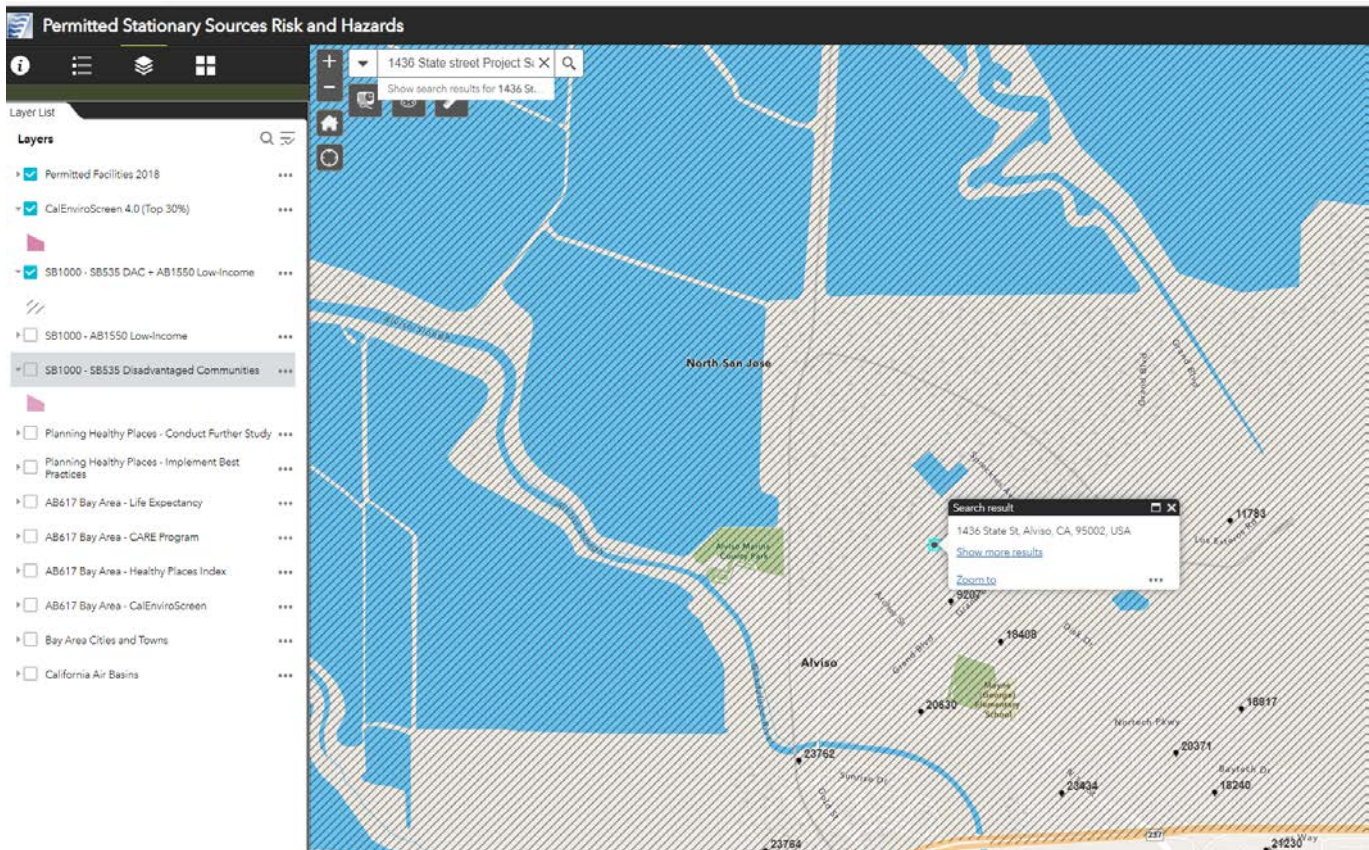
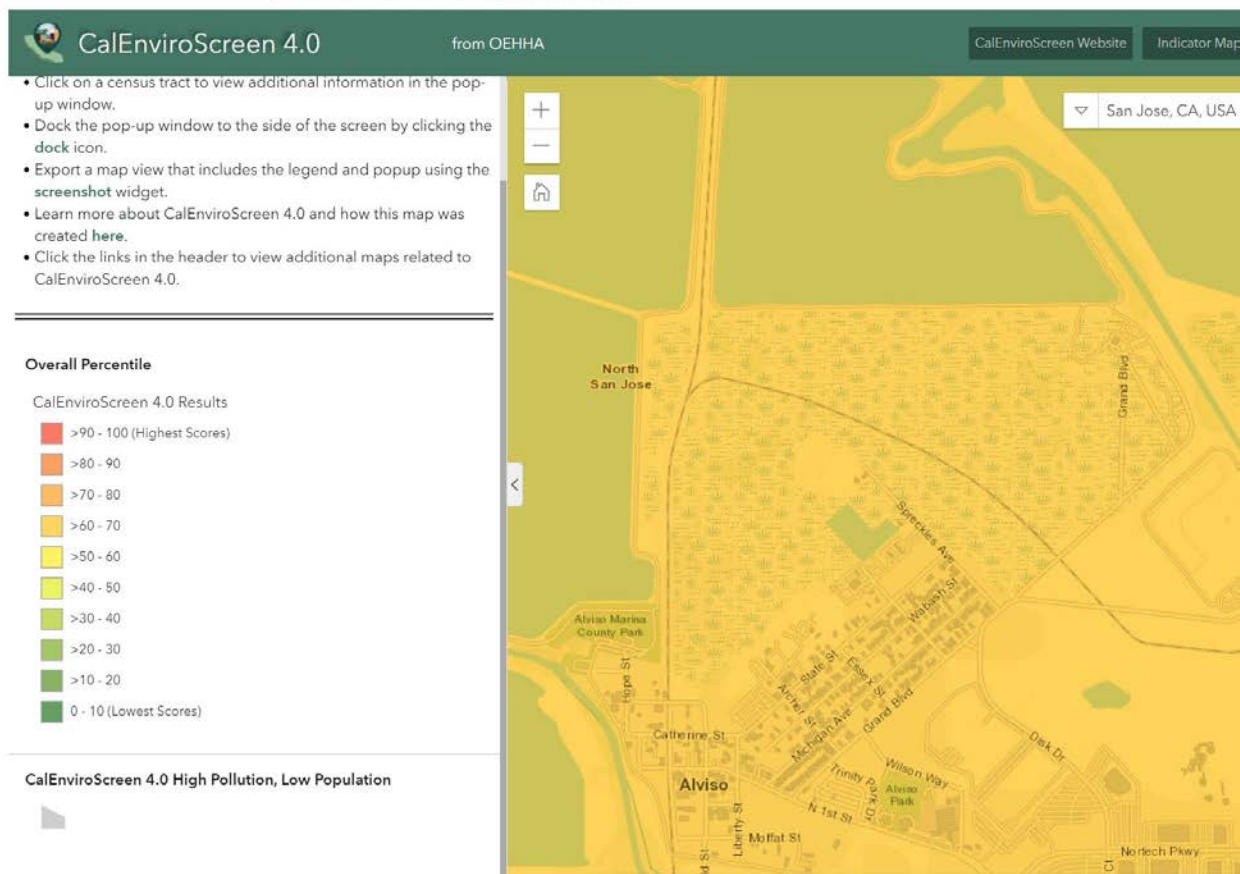


Figure 1: Alviso is designated as SB1000, SB 535 Disadvantaged Community, and AB1550 Low-Income.⁹

⁹ [Permitted Stationary Sources Risk and Hazards \(arcgis.com\)](https://arcgis.com)



The results for each indicator range from 0-100 and represent the percentile ranking of census tract 6085504602 relative to other census tracts.

Overall Percentiles

CalEnviroScreen 4.0	67
Percentile	
Pollution Burden	82
Percentile	
Population Characteristics	50
Percentile	

Exposures

Ozone	15
Particulate Matter 2.5	19
Diesel Particulate Matter	29
Toxic Releases	30
Traffic	94
Pesticides	0
Drinking Water	39
Lead from Housing	51

Environmental Effects

Cleanup Sites	99
Groundwater Threats	94

Hazardous Waste	93
Impaired Waters	92
Solid Waste	100
Sensitive Populations	
Asthma	38
Low Birth Weight	99
Cardiovascular Disease	40
Socioeconomic Factors	
Education	73
Linguistic Isolation	N/A
Poverty	28
Unemployment	36
Housing Burden	24

Figure 2: Alviso's cumulative pollution burden per CalEPA's screening tool.

From: [Marcos Espinoza](#)
To: [PlanningSupportStaff](#); [Le, Thai-Chau](#); [Meiners, Laura](#)
Subject: No. H21-049 (SP18-058)
Date: Wednesday, December 8, 2021 7:08:17 AM

[External Email]

Dear planning commission and directors,

I am opposed to this proposed project. After reading through the responses from the developer I found the answer inadequate. They were simple answer that didn't give deep explanation of the project. One response mentioned there will be no asphalt on the lot. What are the steps of action to enforce this if there ends up being asphalt stored on the lot. There needs to be a full study of the effects this project will cause on the community. This project should not be approved without a proper eir. By doing a simple google image search of the business's current location, they have over 25 large trucks and many other items that look like they are stored there. Without a proper eir the effects of all these trucks and other items being store can not be understood fully. As a community member I rely on my city officials to protect us from any and all harm that this project and any proposed project may cause.

Sincerely,
Marcos Espinoza
Mte9065@gmail.com

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Le, Thai-Chau

From: Mark Espinoza <esp_jkclaw@yahoo.com>
Sent: Wednesday, December 8, 2021 12:03 AM
To: Le, Thai-Chau
Subject: Re: Alviso projects

[External Email]

Please provide me with zoom link

Sent from my iPhone

> On Dec 1, 2021, at 3:26 PM, Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov> wrote:

>

> Hi Mark,

>

> There is a planning commission meeting today with a couple of projects. The agenda is available here:

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.sanjoseca.gov%2Fhome%2Fshowpublisheddocument%2F80088%2F637733705815870000&data=04%7C01%7CThai-Chau.Le%40sanjoseca.gov%7Cde10d16949414cb15d4208d9ba211a07%7C0fe33be061424f969b8d7817d5c26139%7C1%7C0%7C637745473610263767%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikh1haWwiLCJXVCi6Mn0%3D%7C3000&data=rCrOoz42uN2VPaXl1CiT0Zv7LM%2B%2FJ8RO%2BQhB1fAN4TE%3D&reserved=0>

>

> The State Street project is going next week on 12/8/21 at 9:00AM at Director's Hearing. The agenda and project permits will be posted here:

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.sanjoseca.gov%2Fyour-government%2Fdepartments-offices%2Fplanning-building-code-enforcement%2Fplanning-division%2Fcommissions-and-hearings%2Fplanning-director-hearings%2Fagendas-minutes-2021&data=04%7C01%7CThai-Chau.Le%40sanjoseca.gov%7Cde10d16949414cb15d4208d9ba211a07%7C0fe33be061424f969b8d7817d5c26139%7C1%7C0%7C637745473610263767%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikh1haWwiLCJXVCi6Mn0%3D%7C3000&data=zST%2BI%2FFIXPVXNVvZ3JgkQQ7zZ%2FIYmg2G0UEXjydh%2F90%3D&reserved=0>

>

> No hearing date for second harvest yet.

>

> Best regards,

> Thai

>

> -----Original Message-----

> From: Mark Espinoza [mailto:esp_jkclaw@yahoo.com]

> Sent: Wednesday, December 1, 2021 3:08 PM

> To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>

> Subject: Re: Alviso projects

>

>
>
> [External Email]
>
>
>
> Is there any hearing today?
> State street or second harvest? Meetings?
> Sent from my iPhone
>
>
> This message is from outside the City email system. Do not open links or attachments from untrusted sources.
>
>

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

December 8, 2021

Thai-Chau Le
CEQA Planning Supervisor
200 E. Santa Clara Street
San Jose, CA 95113
Thai-Chau.Le@sanjoseca.gov

Re: 1436 State Street Project Initial Study/Mitigated Negative Declaration **FILE NOS: H21-049 (FORMERLY SP18-058) AND ER21-110)**

Dear Ms. Thai-Chau Le:

This comment letter includes both the ethical, but non-CEQA issues and potential CEQA impacts inadequately analyzed in the Initial Study/MND. Currently the community of Alviso has at least a dozen construction type of land-uses. This proposed corporation yard/ warehouse project with 5 light duty trucks (10 daily), 9 medium duty trucks (18 daily), 7 heavy duty trucks (14 daily), and 5 personal vehicles (52 daily) trucks will have approximate 94 daily vehicle trips. Although this project incrementally is less than significant with mitigation incorporated, the small community of Alviso is cumulatively and disproportionately burden with environmental impacts.

Cumulative Air Quality Impacts for Sensitive Receptors and MANDATORY FINDINGS OF SIGNIFICANCE

As you know, the BAAQMD is in the process of updating their CEQA thresholds.

- The BAAQMD thresholds have not been updated since 2010. The 2017 version solely reflects the *California Supreme Court's 2015 opinion in Cal. Bldg. Indus. Ass'n vs. Bay Area Air Quality Mgmt. Dist.*, 62 Cal.4th 369. Per BAAQMD's website: "The Guidelines for implementation of the thresholds are for information purposes only to assist local agencies. Recommendations in the Guidelines are advisory and should be followed by local governments at their own discretion. These Guidelines may inform environmental review for development projects in the Bay Area, but do not commit local governments or the Air District to any specific course of regulatory action."¹² On page 2-39 of the State Street IS/MND CEQA Comments and Responses: "*Furthermore, the BAAQMD was notified of the circulation of the Draft Initial Study and did not provide comments.*" The absence of a comment letter from BAAQMD does not provide substantial evidence that this project will not have any significant impacts.

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Thank you,

Ada E. Márquez
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San Jose, CA 95127

³ [CalEnviroScreen 4.0 | OEHHA](#)

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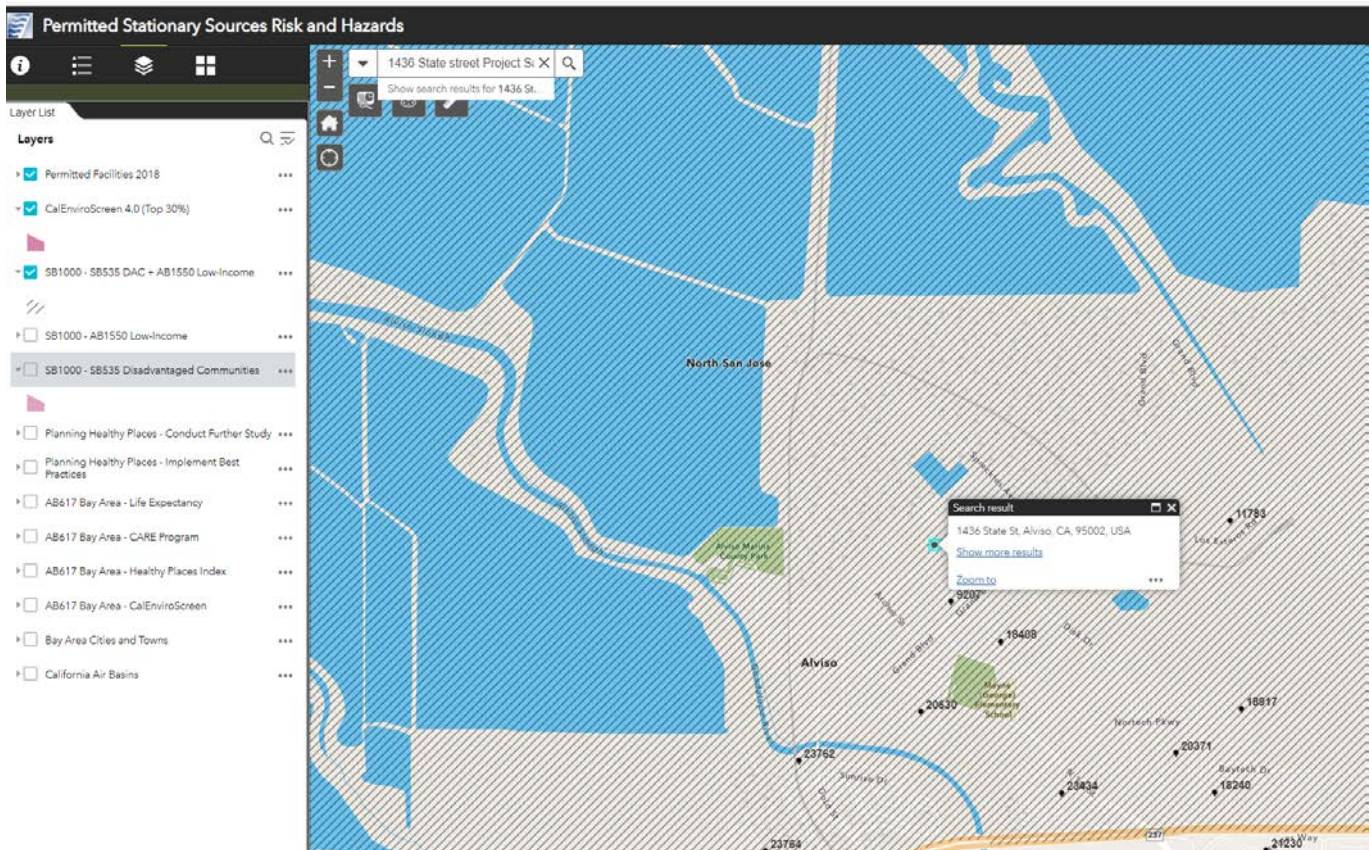
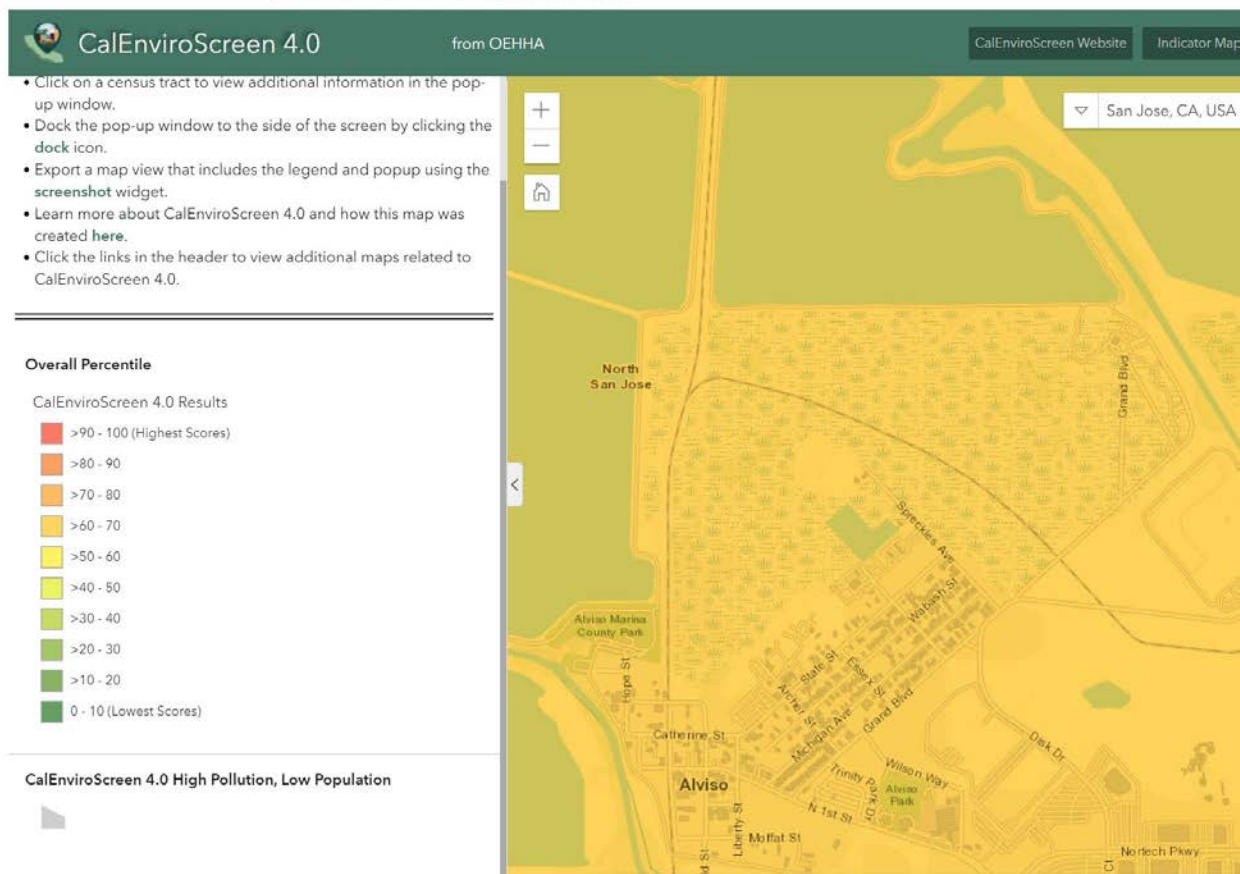


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Linguistic Isolation	N/A
Poverty	28
Unemployment	36
Housing Burden	24

Figure 2: Alviso's cumulative pollution burden per CalEPA's screening tool.

Tribal (Muwekma Ohlone) Comments



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Sacramento Area Office
2800 Cottage Way
Sacramento, California 95825



Ms. Dena Magdaleno
Post Office Box 56
Burnt Ranch, CA 95527

JAN 23 1998

Dear Ms. Magdeleno:

This is to acknowledge receipt of your letter dated December 16, 1997 and received in this office on December 22, 1997. Please accept our apologies for the delay in responding.

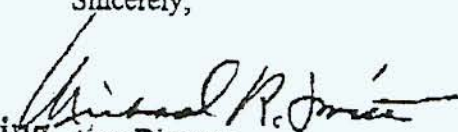
At your request, I am writing a letter of support for the Tsnungwe Council and the Muwekma Ohlone Tribe in their bid for Federal recognition. First let me state that the Bureau of Indian Affairs, Sacramento Area Office, is painfully conscious of the fact that California Indian tribes and their individual members have suffered numerous atrocities and inequities from the dominant culture through the hands of the United States Government and the State of California. To this day, those tribes who are fortunate to have Federal recognition status continue to suffer inequities in their share of Federal funds compared to funds received by similar tribes in other states. To that end, this office fully supports efforts by Indian groups such as the Tsnungwe Council and the Muwekma Ohlone Tribe in their bids for Federal recognition status.

Along with your request regarding the Tsnungwe Council, you provided a letter signed by the Acting Director, Office of Tribal Services, which acknowledged that you had established evidence that your ancestors were considered as parties to the 1864 Treaty. We concur with the Central Office of this finding and will support your bid for Federal recognition. I believe the Assistant Secretary - Indian Affairs has the administrative authority to reaffirm Federal status to your tribe.

Although the Central Office has noted that the 1851 Treaty did not provide conclusive evidence that the treaty did not establish clear evidence of Federal recognition of your ancestors, I am fully supportive of your efforts to establish "unambiguous" Federal recognition of your ancestral group as a tribal entity.

The Bureau of Indian Affairs, Sacramento Area Office, is ready to assist the Tsnungwe Council and the Muwekma Ohlone Tribe in seeking administrative Federal recognition on the basis your tribes were never terminated.

Sincerely,


Acting Area Director

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MUWEKMA OHLONE TRIBE,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 03-1231(RBW)
DIRK KEMPTHORNE, ¹)	
Secretary of the Interior, <u>et al.</u> ,)	
)	
Defendants.)	
)	

MEMORANDUM OPINION

The Muwekma Ohlone Tribe (“Muwekma,” “the Tribe,” or “the plaintiff”)² brings this action under the United States Constitution and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 554, 701-706 (2000), seeking review of the “Final Determination Against Federal Acknowledgment of the Muwekma Ohlone Tribe” (“Final Determination”), 67 Fed. Reg. 58,631 (2002), issued by the Department of the Interior (“DOI” or “the Department”),³ which declined to

¹ Pursuant to Federal Rule of Civil Procedure 25(d)(1), the Court has substituted the Secretary of the Interior, Dirk Kempthorne, for the former Secretary, Gale Norton, as a defendant in this action.

² As a matter of convenience, and in accordance with both parties’ pleadings, the Court will at times throughout this Opinion refer to the plaintiff as “the Tribe.” See Complaint ¶ 1; Answer at 2 n.2. The Court notes, however, that the plaintiff’s status as a Native American tribe within the meaning of the federal acknowledgment criteria is the primary point of contention in this litigation. See Morton v. Mancari, 417 U.S. 535, 553 & n.24 (1974) (stating that for the purposes of federal recognition tribal status is a political rather than racial classification). Accordingly, the Court’s reference to the plaintiff as “the Tribe” is not intended to suggest that the plaintiff is, or should be, entitled to federal tribal recognition.

³ The named defendants are (1) Gale Norton, in her official capacity as the Secretary of the Interior (“Secretary”); (2) Aurene Martin, in her capacity as the Acting Assistant Secretary for Indian Affairs; and (3) the Department of the Interior (collectively “the defendants”). As noted supra, Dirk Kempthorne has been substituted for Gale Norton pursuant to Rule 25(d)(1). In addition, Aurene Martin is no longer the Acting Assistant Secretary for Indian Affairs, and the position is currently vacant.

grant federal recognition to Muwekma as a Native American tribe pursuant to the acknowledgment criteria of 25 C.F.R. § 83 (2006) ("Part 83"). Complaint ("Compl.") ¶ 1. Specifically, Muwekma contends, inter alia, that the Department violated the Equal Protection Clause and the APA by requiring it to undergo the Part 83 acknowledgment procedures while allowing similarly situated tribal petitioners to bypass these procedures altogether. Compl. ¶¶ 37-39; Points and Authorities in Support of Plaintiff's Motion for Summary Judgment ("Pl.'s Mem.") at 22-30. Currently before the Court are the parties' cross-motions for summary judgment.⁴ For the reasons set forth below, the Court denies both parties' motions without prejudice and directs the Department to supplement the administrative record.

I. Background

The following facts are not in dispute. Muwekma is a group of American Indians indigenous to the San Francisco Bay area, the members of which are direct descendants of the historical Mission San Jose Tribe, also known as the Pleasanton or Verona Band of Alameda County ("the Verona Band"). Pl.'s Mem. at 4; Defs.' Mem. at 5; Answer at 6. From 1914 to 1927, the Verona Band was recognized by the federal government as an Indian tribe. Pl.'s Mem. at 4-5; Defs.' Mem. at 5; Answer at 12-13. Neither Congress nor any executive agency ever formally withdrew federal recognition of the Verona Band. Pl.'s Mem. at 5; Answer at 14.

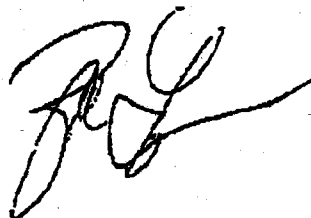
⁴ The following papers have been submitted in connection with these motions: (1) Points and Authorities in Support of Plaintiff's Motion for Summary Judgment ("Pl.'s Mem."); (2) Memorandum in Support of Defendants' Cross-Motion for Summary Judgment and Response in Opposition to Plaintiffs' Motion for Summary Judgment ("Defs.' Mem."); (3) Reply Brief in Support of Plaintiff's Motion for Summary Judgment and Opposing Defendants' Motion for Summary Judgment ("Pl.'s Opp."); (4) Reply Memorandum in Support of Defendants' Cross-Motion for Summary Judgment ("Defs.' Reply"); (5) Plaintiff's Notice of Supplemental Authority ("Pl.'s Not."); (6) Defendants' Response to Plaintiff's Filing of Supplemental Authority ("Defs.' Resp."); (7) Plaintiff's Second Notice of Supplemental Authority ("Pl.'s Second Not."); (8) Defendants' Response to Plaintiff's Second Notice of Supplemental Authority ("Defs.' Second Resp."); and (9) Plaintiff's Reply in Support of Second Notice of Supplemental Authority ("Pl.'s Reply to Second Resp.").

07/30/2002 08:58 FAX 202263338

Rep. Zoe Lofgren

002

Extension of Remarks
Representative Zoe Lofgren
July 25, 2002



The Muwekma Ohlone Indian Tribe is a sovereign Indian Nation located within several counties in the San Francisco Bay Area since time immemorial.

In 1906, the Tribe was formally identified by the Special Indian Census conducted by Indian Agent C.E. Kelsey, as a result of the Congressional Appropriation Act mandate to identify and to purchase land for the landless and homeless California Indian tribes.

At this time, the Department of Interior and the Bureau of Indian Affairs federally acknowledged the Verona Band as coming under the jurisdiction of the Reno and Sacramento Agencies between 1906 and 1927.

The Congress of the United States also recognized the Verona Band pursuant to Chapter 14 of Title 25 of the United States Code, which was affirmed by the United States Court of Claims in the Case of Indians of California v. United States (1942) 98 Ct. Cl. 583.

The Court of Claims case judgment instructed the identification of the Indians of California with the creation of Indian rolls. The direct ancestors of the present-day Muwekma Ohlone Tribe participated in and enrolled under the 1928 California Indian Jurisdictional Act and the ensuing Claims Settlement of 1944 with the Secretary of the Interior approving all of their enrollment applications.

Meanwhile, as a result of inconsistent federal policies of neglect toward the California Indians, the government breached the trust responsibility relationship with the Muwekma tribe and left the Tribe landless and without either services or benefits. As a result, the Tribe has suffered losses and displacement. Despite these hardships the Tribe has never relinquished their Indian tribal status and their status was never terminated.

In 1984, in an attempt to have the federal government acknowledge the status of the Tribe, the Muwekma Ohlone people formally organized a tribal council in conformance with the guidelines under the Indian Reorganization Act of 1934.

In 1989, the Muwekma Ohlone Tribal leadership submitted a resolution to the Bureau of Indian Affairs Branch of Acknowledgement and Research with the intent to petition for Federal acknowledgement. This application is known as Petition #111. This federal process is known to take many years to complete.

Simultaneously, in the 1980's and 1990's, the United States Congress recognized the federal government's neglect of the California Indians and directed a Commission to study the history and current status of the California Indians and to deliver a report with recommendations. In the late 1990's the Congressional mandated report - the California

07/30/2002 08:56 FAX 2022253338

Rep. Zoe Lofgren

003

Advisory Report, recommended that the Muwekma Ohlone Tribe be reaffirmed to its status as a federally recognized tribe along with five other Tribes, the Dunlap Band of Mono Indians, the Lower Lake Koi Tribe, the Tsungwe Council, the Southern Sierra Miwuk Nation, and the Tolowa Nation.

On May 24, 1996, the Bureau of Indian Affairs pursuant to the regulatory process then issued a letter to the Muwekma Ohlone Tribe concluding that the Tribe was indeed a Federally Recognized Tribe.

In an effort to reaffirm their status and compel a timely decision by the Department of the interior, the Muwekma Ohlone Tribe sued the Bureau of Indian Affairs. The Court has mandated that the Department issue a decision this year. That decision is expected in early August.

Specifically, on July 28, 2000, and again on June 11, 2002, Judge Ricardo Urbina wrote in his Introduction of his Memorandum Opinion Granting the Plaintiff's Motion to Amend the Court's Order (July 28, 2002) and Memorandum Order Denying the Defendant's to Alter or Amend the Court's Orders (June 11, 2002) affirmatively stating that:

"The Muwekma Tribe is a tribe of Ohlone Indians indigenous to the present-day San Francisco Bay area. In the early part of the Twentieth Century, the Department of the Interior ("DOI") recognized the Muwekma tribe as an Indian tribe under the jurisdiction of the United States." (Civil Case No. 99-32671 RMU D.D.C.)

I proudly support the long struggle of the Muwekma Ohlone Tribe as they continue to seek justice and to finally, and without further delay, achieve their goal of their reaffirmation of their tribal status by the federal government. This process has dragged on long enough. I hope that the Bureau of Indian Affairs and the Department of Interior will do the right thing and act positively to grant the Muwekma Ohlone Tribe their rights as a Federally Recognized Indian Tribe. The Muwekma Ohlone Tribe has waited long enough; let them get on with their lives as they seek to improve the lives of the members of this proud tribe. To do anything else is to deny this Tribe Justice. They have waited patiently and should not have to wait any longer.



CRUZ M. BUSTAMANTE
Lieutenant Governor
State of California

August 29, 2002

The Honorable Neal McCaleb
Assistant Secretary-Indian Affairs
United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary McCaleb:

I write to urge you to support Petition #111 by the Muwekma Ohlone Tribe for reaffirmation of Federal Acknowledgement.

The Muwekma Ohlone Tribe meets all of the criteria for reaffirmation set by the court as well as the Bureau of Indian Affairs' acknowledgement criteria. The tribe is a previously recognized tribe. It has demonstrated that it has had a trust relationship with the United States from 1906 to the present and Congress has never terminated their relationship.

The tribe's members descend from an historical Indian tribe and they are not members of any other Federally-recognized tribe.

After compiling data and completing extensive research, the Muwekmas have presented a compelling case for the tribe's Federal Acknowledgement. I respectfully urge you and the Bureau of Indian Affairs to carefully review their Petition.

Sincerely,

A handwritten signature in blue ink that reads "Cruz M. Bustamante".

CRUZ M. BUSTAMANTE
Lieutenant Governor

cc: The Honorable Aurene Martin, Deputy Assistant Secretary-Indian Affairs

CMB:BM/mb082902

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

Application Number 10298

Application for enrollment
with the Indians of the State of California under
the Act of May 18, 1928 (45 Stat. L. 602)

The Secretary of the Interior,

Washington, D. C.

Sir:

I hereby make application for the enrollment of myself (and minor children living on May 18, 1928) as Indians of the State of California in accordance with the provisions of the Act of Congress of May 18, 1928 (45 Stat. L. 602). The evidence of identity is herewith subjoined.

1. State the full names, ages, sex, and dates of birth of yourself and your minor children living on May 18, 1928.

<u>English Names</u>	<u>Relationship in Family</u>	<u>Ages in 1928</u>	<u>Sex</u>	<u>Dates of Birth Month Day Year</u>	<u>Degree of Indian Blood</u>
Marine, Lucas	Head	38	M	10-18-1900	1/2
" Ernest	Son	2	M	1-26-1926	3/4

Note:* See application of Katie Marine, wife, Centerville, Alameda
County, California. App. No. 10675

2. Residence on May 18, 1928 Centerville, Alameda County, California.
Box 6,

3. Post Office Centerville Alameda California.
Town or City, Box Number or County State
Rural Route Number.

Note:* Does not live on Trust Lands.

4. Place of birth of yourself and each of your minor children
Near Sunol, Alameda County, California. My child was born

in Alameda County, California.

Application Number 10298
Name Marine, Lucas
Action taken
Approved, FAB

5. Where have you and your children resided since birth?

In Alameda and Mendocino Counties, California.

6. Are you married? Yes.

7. If a married woman, give your name before you were married.

8. Name and exact date of birth (Month, Day, and Year) of your wife (or husband).

Katie Marine, nee Peralta-- Age about 35 years.

9. Is he (or she) of Indian blood? If so, state the name of the Tribe or Band, and degree of Indian blood.

Yes 4/4

Ohlones, (Tribal name unknown)

Alameda County, California.

10. What is your degree of Indian blood and to what Tribe or Band of Indians of the State of California do you belong?

1/2

Degree of Indian Blood

Ohlones (?) Tribal name

Unknown, Alameda County, California.

Name of Tribe or Band

11. To what Treaty or Treaties were you or your ancestors a party, and where did you (or they) reside on June 1, 1852? Where and when were said Treaties negotiated?

I do not know.

12. Give the names of your California Indian ancestors living on June 1, 1852, through whom you claim, who were parties to any Treaty or Treaties with the United States. If you claim through more than one ancestor living on that date, set forth each claim separately. State your descent from said ancestor or ancestors setting forth your relationship to them.

Names

Tribe or Band

Relationship by Blood

Evalina Marine

Ohlones, Tribal name unknown.

Mother.

Alameda County, California.

(See Nos 15 and 26)

-2-

13. Give the names of the Chiefs, Captains and Headmen of the Tribe or Band to which your ancestors belonged on June 1, 1852, who executed the Treaty or Treaties herein referred to, if you know them.

MODERN CHRONOLOGY OF THE MUWEKMA OHLONE TRIBE

- 1900 **Two Federal Indian Censuses** - Direct ancestors of the Muwekma Ohlone membership were identified as **Mission San Jose Indians** or **Costanoan** on the **1900 Indian Population Schedules for Washington Township (Niles rancheria)** and **Murray Township (Pleasanton/Sunol rancheria)**.
- 1904/05 While delivering a memorial and schedule of landless Indians to the 58th Congress in Washington D.C., Secretary of Northern California Indian Association Charles E. Kelsey and a clerk discover the 18 unratified California Treaties of 1851-1852 in the Senate secret archives. Kelsey later named Special Indian Agent in 1905 for California Indians by the Indian Service Bureau.
- 1905/06: Special Indian Agent C. E. Kelsey's (BIA) Indian Census of landless Indians of Northern California identifies "**Verona Band**" in **Alameda County** setting the stage for the 1906 Congressional Appropriation Bill for Landless California Indians [34 Stat. 333, 3. 3504; 35 Stat. 76-77, c.153}; also see Acts of March 4, 1913, June 30, 1919, September 21, 1922, January 29, 1925 and March 10, 1928 in regards to Indians occupying railroad lands; Acts of August 1, 1914, May 18, 1916, March 2, 1917, May 25, 1918, June 30, 1919, February 14, 1920, March 3, 1921 May 24, 1922, January 23, 1923. June 5, 1924, March 3, 1925, May 10, 1926, January 12, 1927, March 7, 1928, March 4, 1929, and August 9, 1937 which provided funds for purchase of lands for homeless California Indians.,
- 1910 **Federal Census** - Direct ancestors of the Muwekma Ohlone membership were identified on the **1910 Indian Population Schedule for Pleasanton Township residing at "Indian Town" (Alisal rancheria)**.
- 1910: Special Indian Agent C. E. Kelsey formally designated the combined Niles/Sunol/Pleasanton/Livermore ancestral Muwekma communities as the **Verona Band of Alameda County** on his 1910 map identifying "Indian Rancherias" under his jurisdiction and the Indian Service Bureau.
- 1913 Kelsey's Map is published for the Commissioner of Indian Affairs and the US Congress (California Congressman John Raker's inquiries on the status of California Indian and any settlements under the unratified treaties. (Verona Band of Alameda County again listed)
- 12/7/1914: Listed under "**Land Allotments**," Reno Agency Special Indian **Agent C. H. Asbury** (BIA) identifies Verona Band as one of twenty-five landless tribal bands eligible for land purchases under his jurisdiction. In this report the Ione and Lower Lake bands are similarly situated along with the **Verona Band**.
- 1914-1920 **World War I** - Six Muwekma men enlist and served overseas during WWI in Army, Navy and Marine Corps.

1923: 1923 Annual Report, Reno Agency, Superintendent James E. Jenkins identified **Verona Band** under the agency's "jurisdiction, but not occupying Government lands." [pages 4-5 RG 75 Reno Agency]

7/8/1926 -4/19/1927 Repeated formal requests issued to Superintendent L. A. Dorrington by Commissioner on the "matter of purchasing land during this fiscal year for homeless California Indians, but no response received to date." (Letter from Second Assistant Indian Commissioner Hauke 3/7/1927).

"When presenting to Congress estimates for the appropriation bill for the fiscal year 1929, it will be necessary to show in detail ... in the matter of purchasing land for homeless California Indians; to give the approximate number of Indian still to be provided with land. ... [y]ou are requested to submit answers to the following, as applying to Indians under your supervision:

(1) Total number of bands under your jurisdiction, giving the name of each band, ." (Letter from Assistant Commissioner E. B. Meritt to Dorrington 1/8/1927).

"Since that time letters have been addressed to the Superintendent on September 29, and December 30, 1926, February 1 and March 7, 1927, but no reply or acknowledgment has been received to any." (letter to Special Inspector Roberts from Commissioner C. H. Burke regarding Dorrington's dereliction of duty and response 4/19/1927)

6/23/27 **Sacramento Superintendent Dorrington** identified the **Verona Band under his jurisdiction**, however, without benefit of any on-site visitation he writes "It does not appear at the present time that there is need for the purchase of land for the establishment of their homes." (page 1). Dorrington also determined without benefit of visitation that an additional 134 California Indian bands under his jurisdiction also did not need land in this report.

12/8/28: Dorrington declines to purchase land for **Verona Band** unless and until funding is provided for maintenance and improvement of lands already purchased for tribes in California.

"...In my opinion, we should not give consideration to the purchase of additional for landless Indians, unless we are assured that funds will be available for improvements thereon, and also for improvements of the tracts already purchased." (Letter Dorrington to Commissioner Hauke)

3/26/1930 In addressing Dorrington's dereliction of duties and lack of response to Office requests, another memorandum is issued which states:

In the manner and on the dates set out below, Superintendent Dorrington was corresponded with respecting the purchase of land for landless California Indians during the fiscal year 1930, for which there is available \$16,200.

Letter June 28, 1929
“ August 8, 1929
Card Oct. 1, “
“ Nov. 1, “
Letter Dec. 6, “
Card Jan. 7, 1930
Letter Feb. 17, 1930

Not one response has been received from Mr. Dorrington upon the correspondence listed above. ...

This is an important matter, and the Superintendent's failure to make response to the Office is not understood. I have constantly kept after the reports but without results. What would you suggest?"

4/23/1930 In a letter to Commissioner Rhoads, Dorrington wrote:

"...Kindly be respectfully advised that the matter of land purchase for homeless Indians has really been given constant and diligent attention throughout the current fiscal year to date and an earnest effort has been made to fully meet the needs of the Indians to the fullest extent without unnecessary or unjustified expenditure of funds, believing that to be the spirit of the law and your wishes in the premises. ...

It has been my opinion, and therefore my belief, for several years that the best interests of the Indians will be served through an arrangement whereby those concerned may be settled on the already acquired land instead of procuring additional which cannot be turn to beneficial use and occupancy by the Indians in mind because of their inability financially to establish themselves thereon.

... In its final analysis, Mr. Commissioner, kindly understand and know that additional land for homeless Indians of California is not required and therefore further demands on the appropriation for the fiscal year 1930 are not warranted or justified."

7/1931 Dorrington had either quit, transferred or was replaced by O. H. Lipps as Superintendent of the Sacramento Agency. Lipps responded to Assistant Commissioner J. Henry Scattergood with specific concerns about the conditions of the homeless California Indians for whom land was purchased:

"Receipt is acknowledged of your letter, dated June 30, 1931, relating to the matter of purchasing land for homeless Indians of California.

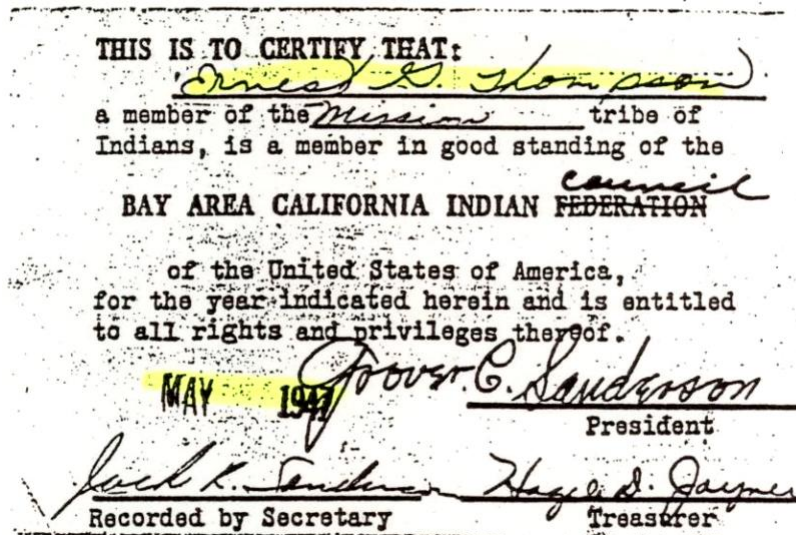
I am addressing this letter to you personally and calling the subject matter thereof to your special attention for the reason that there appears to be a grave lack of understanding in the Office regarding this whole matter of providing homes for homeless California Indians. ... I think it is all the more important that this matter be brought to your personal attention at this time in view of your recent visit to California with the Senate Committee and your familiarity with the sentiment and feeling in this State with respect to the past administration of the affairs of the California Indians.

The conditions on some of these rancherias are simply deplorable. No one can view many of them and observe the conditions under which the Indians are trying to exist without the feeling that someone is guilty of **gross neglect or inefficiency** and that a cruel injustice has been meted out to a helpless people under the name of beneficent kindness. ...

Now it seems to me that the thing for us to do is to look at the facts in the face and admit that in the past the Government has been woefully negligent and inefficient, and then start out with the determination, as far as possible, to rectify our past mistakes. It is difficult to locate the blame, but somewhere along the line there appears to have been **gross negligence** or **crass indifference**. If Congress has been honestly and fully advised of conditions and has refused or failed to give relief asked for, then the Indian Bureau is not responsible for the neglect of the Indians. On the other hand, if Congress believed and intended by appropriating funds for the purchase of lands for homeless Indians and improvements thereon that good and suitable lands would be purchased and houses constructed and improvements made, **then we have neglected to do our duty.**"

- 1928 **1928 California Indian Jurisdictional Act and Approved Muwekma BIA Enrollment Applications** - Between **1929 and 1932** direct ancestors and families of the Muwekma Ohlone Tribe enroll under the 1928 California Indian Jurisdictional Act completing **18 BIA applications** containing the names of 55 members of the tribe. All of the enrollment Muwekma families identified as **Mission San Jose Tribe** or **Ohlone** (or variation thereof). **Note** none of the other 17,000 California Indians were identified as "**Tribe: Mission San Jose.**"
- 1931-1940 **Verona Band** tribal member Domingo Larry Marine attends **Indian Boarding School at Sherman Institute**. January 1940, enlisted in US Marine Corps. 1st Marine Division, sergeant, campaigns: Guadalcanal to the Ryukyu Islands.
- 1940-1948 **World War II** - Almost all of the Muwekma men enlist and served overseas in the Army, Army Air Corps, Navy, and Marine Corps including the 101st and 82nd Airborne and Patton's Tank 3rd Army Division.

- 1944-1947 **Chemawa BIA Boarding School.** Two of the children of **Verona Band** members John Guzman and Flora Munoz John Guzman and Reyna Guzman attended the Chemawa Indian Boarding School in Oregon.
- May 1947 Muwekma Elder Ernest G. Thompson along with other members of the Tribe join the Bay Area California Indian Council:



- 1950-1957 **Second BIA Enrollment.** Between 1950 and 1957 at least **21 Muwekma Ohlone heads of households and families** enrolled with the BIA and were approved by the Secretary of the Interior.
- 1950s-Present **Service in the U.S. Armed Forces** – Muwekma men and women continuously serve overseas in U.S. Armed Forces (Army, Navy, marine Corps, and Air Force) during the Korean War, Vietnam, Desert Storm, Iraq, and are still in uniform today.
- 7/23/1966 **Letter to Congressman Don Edwards** from Rupert Costo, AIHS and Philip Galvan
- “Enclosed please find a statement of the Ohlone Indians as to their history and present status, copy of the deed to the present official **Ohlone Indian Cemetery**. . We request that you sponsor legislation designating the.98 of an acre adjacent to the Ohlone Indian Cemetery and the cemetery itself as a national historic site. A provision that the Government place this area in the care of the Ohlone Indians and the American Indian Historical Society... .
- 7/29/1966 **Letter from Congressman Edwards** to Mrs. Jeanette Vieux of Fremont, California stating that:

“I also contacted the Bureau of Indian Affairs. They informed me that they do not have jurisdiction in this matter since the Ohlone Indians are not officially recognized as an American Indian Tribe.”

1968-1970 **Third BIA Enrollment.** Between 1969-1971 nineteen (19) Muwekma Ohlone heads of households enrolled with the BIA and were approved by the Secretary of the Interior.

1/1982 **Committee to Establish the Tribal Council of the Costanoan Indians**
“Committee to Establish the Tribal Council of Costanoan Indians
Manuel Martinez, Vice-Chairman
Rosemary Cambra, Sec./Tres.

9/21/1982 **Letter from Karen Parsons East Bay Regional Park District to Nancy Evans Native American Heritage Commission**

“Ardenwood Regional Preserve Native American Input concerning Ohlone Village and Burial Site Ala-392
Phil Galvan (Fremont)
Rosemary Cambra (San Jose) **Ohlone Tribal Council**

3/1989 **Resolution of Intent to Petition (#111) Muwekma Ohlone Tribal Council**
petitions the United States Government for Recognition.

4/25/1989 **Letter from the DOI, BIA Tribal Government Services to Chairwoman Rosemary Cambra** stating”

“Acknowledgment of a petitioning group as an Indian tribe within the meaning of Federal law establishes a permanent special relationship with the United States.

... Because of the significance and permanence of acknowledgment as a tribe, the process of evaluation is a lengthy and thorough one.” [Emphasis added]

6/16/1989 **Letter from the BIA’s Acting Deputy to the Assistant Secretary - Indian Affairs Operations, Hazel E. Elbert to Chairwoman Rosemary Cambra** stating:

“This letter is to acknowledge our receipt, on May 9, 1989, of the undocumented petition for Federal acknowledgment of the Ohlone/Costanoan Muwekma.

... The evaluation process is deliberately lengthy and painstaking because the decision to acknowledge an **Indian tribe establishes a perpetual government-to-government relationship with the United States.**”

1992-1998 In the **Advisory Council on California Indian Policy Act of 1992, P .L. 102-416 § 2(2)** Congress found "due to the unique historical circumstances of the Indians of California, Federal law and policies have often dealt specifically with California Indians." In **Footnote 75** of the **ACCIP Recognition Report** under the subheading **The Federal Acknowledgement Process – A Continuing Injustice**, the report noted that:

L.A. Dorrington, Superintendent of the Sacramento Indian Agency during the late 1920s, prepared a report for the Commissioner of Indian Affairs on the land needs of numerous California Indian bands living at the margins of non-Indian society, often concentrated in the rural and mountainous areas of the state on scattered public domain allotments, with little or no contact with the Indian agency. ...

The Dorrington report provides evidence of previous federal acknowledgment for modern-day petitioners who can establish their connection to the historic bands identified therein. Clearly, the BIA "recognized" its trust obligations to these Indian bands when it undertook-pursuant to the authority of the Homeless California Indian Acts and the Allotment Act-to determine their living conditions and their need for land. The fact that some were provided with land and others were not did not diminish that trust.

Among those California Indian groups that have petitioned for federal acknowledgment, there are several who that can trace their origins to one or more of the bands identified in the Dorrington report. The **Muwekma Tribe** is one whose connection to the **Verona Band** (id. at 1) has been recently confirmed in a letter from the BAR, but there are at least eight others: Dunlap Band of Mono Indians (see Dorrington, at pp. 6-7, reference to the "Dunlap band"); ... (page 30).

1994 **Passage of HR 4180) “An Act to provide for the annual publication of a list of federally recognized Indian tribes, and for other purposes.)**

“Title I – Withdrawal of Acknowledgment or Recognition.

SEC. 101 Short Title. “Federally Recognized Indian Tribe List of 1994.”

....

SEC 103 Findings ...

(3) Indian tribes presently may be recognized by Act of Congress; by the administrative procedures set forth in part 83 of the Code of Federal Regulations denominated “Procedures for Establishing that an American Indian Group Exists as an Indian Tribe; or by decision of a United States court;

(4) a tribe which has been recognized in one of these manners may not be terminated except by an Act of Congress;

(5) Congress has expressly repudiated the policy of terminating recognized Indian tribes, and has actively sought to restore recognition to tribes that previously have been terminated; **Title II Central Council of Tlingit and Haida Indian Tribes of Alaska**

...SEC. 202. Findings

The Congress finds and declares that—

- (1) **the Secretary does not have the authority to terminate the federally recognized status of an Indian Tribe as determined by Congress;**
- (2) **the Secretary may not administratively diminish the privileges and immunities of federally recognized Indian tribes without the consent of Congress;**

- 1/24/95: Tribe submits Petition for Federal Acknowledgement at White House meeting.
- 5/24/96 **BIA acknowledges that Muwekma was recognized as late as 1927 as the “Verona Band of Alameda County.”**
- 12/08/99 Tribe sues BIA, claiming length of BAR process violated APA.
- April 13, 2000 Congressman George Miller (D) Pleasant Hill introduces legislation in committee as a follow-up to the ACCIP report titled **California Indian Act of 2000** specifically naming the Muwekma Ohlone Tribe for Recognition.
- 1/16/01 Court orders BIA to issue Final Determination by 3/11/02
- 9/6/02 BIA issues Final Determination declining to Acknowledge Tribe.
- 6/6/03 Tribe files complaint in DC alleging violation of Equal Protection Clause and Administrative Procedures Act.
- 9/28/11: District Court grants summary judgment for BIA
- 6/2013: AS-IA begins regulatory fix for “broken Acknowledgement Process”



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

TAKE
PRIDE IN
AMERICA

IN REPLY REFER TO:

Tribal Government Services - AR
BIA 4641-MIB

MAY 24 1996

Ms. Rosemary Cambra
226 Airport Parkway, Suite 630
San Jose, California 95110

Dear Ms. Cambra:

The Branch of Acknowledgment and Research has reviewed documentation submitted by the Muwekma to demonstrate previous acknowledgment. The purpose of this research is to determine whether the Muwekma can utilize section 83.8 of the acknowledgment regulations by demonstrating previous Federal acknowledgment in the 20th century.

If a petitioner can demonstrate past acknowledgment, the requirements to be acknowledged are reduced, in accord with section 83.8(d). A previously acknowledged petitioner need only demonstrate tribal existence from the point of last Federal acknowledgment. Further, the demonstration of tribal existence between last acknowledgment and the present-day community requires only a demonstration of criterion 83.7(c), using a reduced burden of evidence. The petitioner must still show that modern-day group meets the full requirements of criteria 83.7(b) and (c). Tribal ancestry under criterion 83.7(e) must still be shown, tracing from the group at the point of last Federal acknowledgment or earlier.

A determination of previous acknowledgment has two general elements. One is to show a past Federal action which constitutes unambiguous Federal acknowledgment. The second is to establish on a preliminary basis that the present group is the same as or has evolved from the group as it existed at the point of last acknowledgment.

Based on the documentation provided, and the BIA's background study on Federal acknowledgment in California between 1887 and 1933, we have concluded on a preliminary basis that the Pleasanton or Verona Band of Alameda County was previously acknowledged between 1914 and 1927. The band was among the groups, identified as bands, under the jurisdiction of the Indian agency at Sacramento, California. The agency dealt with the Verona Band as a group and identified it as a distinct social and political entity. The band was among the bands proposed by a Special California Indian agent in 1914 for homesite land under the appropriations for homeless California Indians which began in 1906. In 1928, the band was again

identified under the land purchase program, but this review was that a homesite was not required.

The Muwekma have also established, on a preliminary basis, that it is the same group as the band identified between 1914 and 1927. Consequently, the Muwekma may complete their petition documentation based on section 83.8 of the regulations, tracing the group's existence from 1927 to the present.

This letter is a determination of eligibility to be evaluated under section 83.8, not a determination that the Muwekma meet the requirements of the acknowledgment regulations, section 83.7, as modified for previously acknowledged groups by section 83.8. That determination will be made during the active consideration of the Muwekma petition.

While we have endeavored to make this determination as conclusive as possible, you should be aware that a determination of the point of last Federal acknowledgment under 83.8 is subject to review during the preparation of the proposed finding, as well as to challenge and review in the final determination comment process and any reconsideration, in the same manner as any other question bearing on a determination concerning acknowledgment.

This letter constitutes only a portion of the results of the technical assistance review of the documented Muwekma petition. The technical assistance review will be conducted based on the this determination of previous acknowledgment. We expect to provide the balance of the review within a short time.

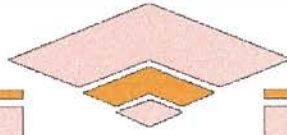
Sincerely,

/SGD/ DEBORAH J. MADDOX

Director, Office of Tribal Services

cc: Al Logan Slagle
Dena Magdaleno

Surname; 440B; 440 Chron; 400; Hold; Roth:gr; x3592; 5/6/96;
muwekprv.ltr; transmit 7; ret:jac 05-10-96



MUWEKMA OHLONE INDIAN TRIBE

OF THE SAN FRANCISCO BAY AREA REGION

'Innu Huššištak Makiš Mak-Muwekma *"The Road To The Future For Our People"*

September 9, 2021

TRIBAL CHAIRPERSON
CHARLENE NIJMEH

TRIBAL VICE CHAIRPERSON
MONICA V. ARELLANO

TRIBAL SECRETARY
GLORIA E. ARELLANO-
GOMEZ

TRIBAL COUNCIL
JOANN BROSE
RICHARD MASSIATT
FRANK RUANO
SHEILA SCHMIDT
CAROL SULLIVAN

TRIBAL ETHNO-HISTORIAN
ALAN LEVENTHAL

Ms. Thai-Chau Le, Planner
City of San Jose
Planning Department
200 E. Santa Clara St.
San Jose, Ca. 95113
Email: Thai-Chau.Le@sanjoseca.gov
Phone: 408-535-5658

Dear Ms. Le

Thank you for notifying the Muwekma Ohlone Tribal leadership about the City of San Jose's Adopt a Mitigated Negative Declaration for the 1436 State Street Project (SP18-058/ER21-110) located in the Alviso District of San Jose.

The location of this project falls within the aboriginal territory of the intermarried *Alson Thámien* Ohlone-speaking ancestral Muwekma tribal groups of the greater Santa Clara County region whose families were missionized into Missions Santa Clara, and therefore, have historic and biological ties to the Muwekma Tribe's history and genealogical heritage. The enrolled Muwekma members are **directly descended** from Indians missionized into **Missions Santa Clara, San Jose, and San Francisco**, and our genealogy was independently verified by the **Bureau of Indian Affairs' Office of Federal Acknowledgement** in 2002 as part of our petitioning efforts to regain the Tribe's previous federally acknowledge status. Furthermore, as the only documented previously Federally Recognized Ohlone tribe, we, along with our over 600 BIA documented tribal members claim this region as part of our ancestral and historic homeland.

Although the MND states under cultural resources that:

"3) Would the project disturb any human remains, including those interred outside of formal cemeteries?

(Less than significant impact) Based on the available aerial photographs, the existing metal building was placed on the site between 1968 and 1980. ...

... The proposed construction activities would involve grading on the site; however, the site is currently paved and developed, with soils that have been disturbed and covered with approximately 1 to 3 feet of fill material.³⁹ The proposed project would not disturb previously unknown archaeological resources since site grading is less than 3 feet (page 96)."

This statement is problematic for two reasons: 1) based upon that there are previous recorded sites within the area containing our ancestral human remains such as CA-SCL-528 (the planned Tesla site); CA-SCL-675 to the southeast of SCL-528; CA-SCL-418 and CA-SCL-450 also located south; and CA-

SCL-677 and CA-SCL-678 located to the east of SCL-528, and 2) our Tribe just dealt with the Planning Department's **Less than significant impact** issued for the 200 Park Avenue (Jay Paul's) Office Building project in downtown San Jose where we had to remove over 45 ancestral remains. Plus due to such poor planning we had no place to rebury our ancestors close to the original cemetery. Another project which was considered disturbed was at the Alma Light Rail Station where we removed over 126 ancestral remains.

Furthermore, the MND states that:

The proposed project would not disturb any known human remains. There are no cemeteries on the site according to the Northwest Information Center record search and a review of historic aerials. Since the project site had been developed until recently and the soils have been disturbed, the likelihood of encountering previously unknown archaeological resources or human remains during grading or other earthmoving activities is very low.

What is troublesome, is that nowhere does the MND report upon the results of the archival literature search conducted at the Northwest Information Center, and what previously recorded sites were identified and at what distance from the subject property. Obviously such results would be useful in a predictive model.

Muwekma Tribe's Formal Determination of Previous Unambiguous Federal Recognition

The enrolled Muwekma members are **directly descended** from the aboriginal tribal groups whom were missionized into Missions Santa Clara, San Jose, and Dolores (SF), and our tribal member's genealogy and descendancy was independently verified by the Bureau of Indian Affairs' Office of Federal Acknowledgement in 2002 as part of our petitioning efforts to regain our Tribe's previous federally acknowledged status. Furthermore, as the only documented previously Federally Recognized Ohlone/Costanoan tribe, we, along with our over 600 BIA documented tribal members, claim this region as part of our ancestral and historic homeland.

In 1989 our Tribe sent a letter to the Branch of Acknowledgement and Research in order to have our Acknowledged status clarified and restored. After eight years in the petitioning process, and after the submittal of several hundred pages of historic and legal documentation, on May 24, 1996 the Bureau of Indian Affairs' Branch of Acknowledgment and Research (BAR) made a positive determination that:

Based upon the documentation provided, and the BIA's background study on Federal acknowledgment in California between 1887 and 1933, **we have concluded on a preliminary basis that the Pleasanton or Verona Band of Alameda County was previous acknowledged between 1914 and 1927.** The band was among the groups, identified as bands, under the jurisdiction of the Indian agency at Sacramento, California. The agency dealt with the Verona Band as a group and identified it as a distinct social and political entity.

In 2000 – D.C. District Court Justice Ricardo Urbina wrote in his **Introduction of his Memorandum Opinion Granting the Plaintiff's Motion to Amend the Court's Order** (July 28, 2000) and **Memorandum Order Denying the Defendants' to Alter or Amend the Court's Orders** (June 11, 2002) that:

The Muwekma Tribe is a tribe of Ohlone Indians indigenous to the present-day San Francisco Bay area. In the early part of the Twentieth Century, the Department of the Interior ("DOI") recognized the Muwekma tribe as an Indian

Brief Ethnohistoric Background of our Ancestral *Thamien* Ohlone-Speaking Region of the Santa Clara Valley

Milliken, in his contributory study on Indians of Mission Santa Clara, he states that "Our Mother Santa Clara, which was probably west of the Guadalupe River within a few yards of one of the Mission Santa Clara sites" was part of the core villages that comprised the *Tamien* tribal district (Milliken in Hylkema 2007:52). He also suggested that "the villages of San Jose Cupertino, Our Mother Santa Clara, and Our Patron San Francisco formed a single tribelet that controlled most of the Guadalupe River system, and therefore, the core of the Santa Clara Valley."

In an earlier study, Milliken (1983) determined that:

The East Bay people at Santa Clara Mission were listed under the district name "Santa Agueda". ... The earliest were the "Estero," "Alameda," "Palos Colorados," and "Este." Many "Alameda" and "Estero" adults at Mission San Jose had children that had been baptized at Santa Clara under the "Santa Agueda designation. ... Most of the Santa Clara converts who later married at Mission San Jose were also "Santa Agueda"..., although some were from "San Bernardino"...

... The Mission San Jose priests provided more detailed genealogical information for each person than did those at Mission San Francisco. ... The cross references indicate that people from the "Estero" and the "Alameda" districts came from the *Yrgin*/[*Jalquin*] and *Tuibun* tribelets (Milliken 1983:99).

In his 1991 dissertation, Milliken, presented information about the "Santa Clara Valley Conversions, 1780-1784" stating that:

At the start of 1780 the core group of adult Christians at Mission Santa Clara were from the **Alson** village of **San Francisco Solano**, rather than the nearer tiny *Thamien* villages of Our Mother Santa Clara and Our Patron San Francisco. (1991:139)

Within the Santa Clara Valley and adjacent regions, during the first twenty years since the establishment of Mission Santa Clara, Milliken suggested that

"(c)onversion of adult married couples in April (1795) had been concentrated among people from the southern East Bay, **Alson**, **Tuibun**, and perhaps **Jalquin/Yrgin**" tribal groups (1991:224).

It is important to note here that many of the lineages enrolled in the Muwekma Ohlone Tribe trace their direct ancestry to the Chochenyo and *Thamien* Ohlone-speaking **Alson**, **Seunen** and **Jalquin/Yrgin** tribal groups whom were missionized in to Missions Santa Clara, San Jose, and San Francisco.

Also historic documentation and interviews of Muwekma elders born in the mid-19th century by renown 19th and 30th century scholars such as the Smithsonian Institution's Bureau of American Ethnology linguist John Peabody Harrington and Cal Berkeley's anthropologist Alfred L. Kroeber, demonstrates that tribal community members from Mission Santa Clara intermarried with members of Mission San Jose. One such elder whose descendants are enrolled in our Tribe was Maria de los Angeles Colos (aka

Angela). She was interviewed by Harrington in the late 1920s and informed him that she was born on the ranch of Don Agustin Bernal in Santa Teresa, south San Jose.



Harrington wrote in his field notebook:

Inf's [informant's] name is Maria de los Angeles Colos. Her husband here I find is commonly known to the Americans as "Joe" [Guzman]. She was born at the rancho of Don Agustin Bernal – at Santa Teresa. ... Inf's mother was taken by the Picos [Antonio Maria Pico] of San Jose and Santa Clara and they brought her up at San Jose. Her name was Joaquina Pico (page 111 JPH handwritten notes).

Mission Santa Clara records indicate that Maria de los Angeles' parents, Zenon and Joaquina [Pico], were married at the Mission on October 16, 1838:

1838 October 16, #2711, Zenon & Joaquina

En 16 de Octubre de 1838 en la Yglecia de esta Mision...case y vele a los siguientes ... A un Neofito (orginario de la Mision de S[an] Raf[ae]l y residente en el Rancho de los Vernaes) [Bernals] llamado Zenon con una Neofita de S[an] Jose llamada Joaquina.

Maria de los Angeles was born between 1839 and 1840, and she was baptized with the name Maria Asuncion de los Angeles at Mission San Jose on February 2, 1840 (SJM Bapt # 7774).

Years later, in 1862, Maria de los Angeles had a child with a Clareño Indian man named Jose Raymundo Bernal who at times also was identified as Ramon Sunol. He was baptized at Mission Santa Clara. Their son was named Joseph who was later baptized at Mission San Jose.

Our families were listed on the two 1900 Indian Censuses for Pleasanton and Niles; Special Indian Agent Charles E. Kelsey's 1905-1906; 1910 Federal Indian Census; the 1910 and 1913 Indian Rancheria maps prepared for the Department of Interior and Congress; 1914, 1923 and 1927 Superintendent reports; 1928-1932 BIA enrollment under the 1928 California Indian Jurisdictional Act; attending Indian Boarding Schools in the 1930s and 1940s; enrollment with the 2nd BIA enrollment period (1950-1955); enrollment with the 3rd BIA enrollment period (1968-1971); as Ohlone members and contacts for

protecting our Ohlone Indian Cemetery associated with Mission San Jose (1962-1971); and conducting Cultural Resource Management/mitigation work on our sites since the 1980s.

Based upon her marriage to Raymundo, Maria also shared with Harrington that:

"the Clareños [Indians of Mission Santa Clara] were very much intermarried with the Chocheños [Indians of Mission San Jose], the dialects were similar," and also at this time he recorded the Chochenyo linguistic term – "**muwe'kma, la gente**" [meaning **the people**] in their Ohlone language (Harrington 1929 field notes [1921-1934]).

Based upon the above, supported by these attached ethnohistoric and **legal** background information about our tribe's historic status that we are submitting, we make the following cultural resources management recommendations in dealing with any potential adverse effects on any and all ancestral heritage sites, features, and/or artifacts located within our aboriginal territory, and in this specific case the City of San Jose:

1. Due to the fact that almost no sites have been recorded from this immediate area that we know of, informs us that over the years construction companies, private developers, and the permitting agencies, have not done an adequate job reports the presence of our ancestral heritage sites when discovered, thus avoiding any requirements or liabilities as defined up CEQA and other extant laws and statutes;
2. As the only BIA documented tribe in the Bay Area, and MLD tribal group since the early 1980s on the Native American Heritage Commission's list, please keep us completely informed with regards to commenting on the potential of adverse impacts to our ancestral heritage sites through the EIR and other CEQA-related projects;
3. Should any ancestral human remains be discovered during the course of construction or other circumstances, then please alert our Tribe, and we should be contracted, and be involved in the monitoring and along with CRM archaeologists, in the exposure, removal, documentation, analysis, writing a final report, and reburial of our ancestral remains which should occur as close to the original cemetery as possible;
4. We would like to enter into a working agreement (MOU) with the City of San Jose relative to responding to any and all discoveries of our ancestral heritage village and cemetery sites;

In conclusion, the Muwekma Ohlone Tribal leadership expects comprehensive monitoring programs to be implemented that will offset any adverse impacts to any of the Tribe's ancestral heritage cemeteries and village sites, and these sites should be included in any registry controlled by the local planning department and landmarks commission.

I am attaching a copy of one of the Tribe's archaeological reports on the recovery of our ancestors from CA-SCL-128 that we conducted on behalf of the DiNapoli Family Construction, City of San Jose, along with other legal and historic documentation.

Thank you once again for reaching out to our Tribe, and should you have any questions, please feel free to contact me at marellano@muwekma.org or our Tribal Chairwoman Charlene Nijmeh, at 408-464-2892, email cnijmeh@muwekma.org.

Sincerely,



Charlene Nijmeh, Chairwoman, Muwekma Ohlone Tribe

Monica V. Arellano, Vice-Chairwoman and MLD, Muwekma Ohlone Tribe

Cc: Muwekma Tribal Council

Native American Heritage Commission

Cultural Resource Management Files: City of San Jose, State Street Project



OPERATIONS PLAN

1436 State Street

San Jose, CA

Pacific Surfacing, Inc. (PSI) corporation yard is used for parking company vehicles, equipment and light materials (new wood, rebar, and various other non-hazardous materials packaged in factory sealed containers.) An office staff of 5 is present in this yard as well. PSI does not operate during night hours. Our crew members arrive at times designated/staggered by operations staff, and park their personal vehicles in the allocated parking area vacated by the assigned PSI vehicle. PSI vehicles park only in the corporation yard to ensure minimal disruption to the surrounding area. All vehicles travel on a designated site-specific route provided daily by the operations staff. This is to ensure adherence to all safety, environmental and municipal protocols.

PSI is registered with the California Air Resources Board (CARB). PSI is ahead of the requirement for reduction of toxic air contaminants (TACs.) We have zero registered complaints against our fleet in the history of the program. Designating routes of travel for our drivers is our continued support and commitment to the State's diesel risk reduction plan. PSI uses fleet tracking software to monitor speed, idle and hours traveled for adherence to California Department of Transportation standards.

The attached map will describe site specific detail for your review.

Listed below are the details requested for our fleet:

Light Duty Vehicles – (5) i.e., non-commercial ½ ton pickup trucks. These vehicles are used for miscellaneous support tasks in the bay area. 5,000 – 7,500 miles per vehicle annually.

Medium Duty Vehicles – (9) i.e., non-commercial flatbeds with crew cab for transport of crew, tools and materials. These vehicles travel directly from the corporation yard to designated jobsites throughout the bay area. Once on designated jobsites the remain turned off and parked until the end of the workday. 10,000 – 12,500 miles per vehicle annually.

Heavy Duty Vehicles – (7) i.e., Commercial vehicles used to transport equipment and materials. These vehicles travel directly from the corporation yard to designated jobsites throughout the bay area. Once equipment is delivered to the designated jobsite, these vehicles travel on designated routes to material suppliers and return material as needed. 25,000 – 30,000 miles per vehicle annually.



Clarification of Truck Restricted Areas – PSI commercial vehicles will not travel on any roads other than State Street (east of 1436), Spreckles Ave, and Los Esteros. Please reference the above map for clarification.

Hours of Operations – Heavy equipment, commercial vehicles, and other onsite commercial/industrial noise will be only take place between 6:00AM and 6:00PM.