

City of Morgan Hill  
Development Services Department



**Jacqueline Court Manufacturing Building Project**  
**Categorical Exemption Memorandum**

**October 2023**

**Prepared by**



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## **A. INTRODUCTION AND SUMMARY**

In July 2016, the City of Morgan Hill adopted the 2035 General Plan,<sup>1</sup> as well as an associated Environmental Impact Report (EIR) for the updated General Plan.<sup>2</sup> The General Plan EIR is a program EIR, prepared pursuant to Section 15168 of the California Environmental Quality Act (CEQA) Guidelines (Title 14, California Code of Regulations, Sections 15000 *et seq.*). The General Plan EIR analyzed full implementation of the General Plan and identified measures to mitigate the significant adverse impacts associated with the General Plan.

Section 21084 of the Public Resources Code requires the CEQA Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In response to that mandate, the Secretary of the Natural Resources Agency has found that several classes of projects listed in Article 19 do not have a significant effect on the environment and, thus, are declared to be categorically exempt from the requirement for the preparation of environmental documents.

The purpose of this Memorandum is to evaluate the Jacqueline Court Manufacturing Building Project (proposed project) to determine whether the proposed project is exempt from review under the CEQA. As will be demonstrated below, the proposed project can be considered exempt from CEQA, consistent with CEQA Guidelines Section 15332, In-Fill Development Projects. In addition, none of the exceptions to categorical exemptions specified by CEQA Guidelines Section 15300.2 are applicable to the proposed project.

## **B. PROJECT DESCRIPTION**

The following provides a description of the project site's current location and setting, as well as the proposed project components and the discretionary actions required for the project.

### **Project Location and Setting**

The project site consists of a 2.18-acre parcel located at 16175 Jacqueline Court in the City of Morgan Hill, California (see Figure 1 and Figure 2). The site is identified by Assessor's Parcel Number (APN) 817-32-058 and is bounded by Barrett Avenue to the north and Jacqueline Court to the east. The City's General Plan designates the site Industrial and the site is zoned General Industrial (IG).

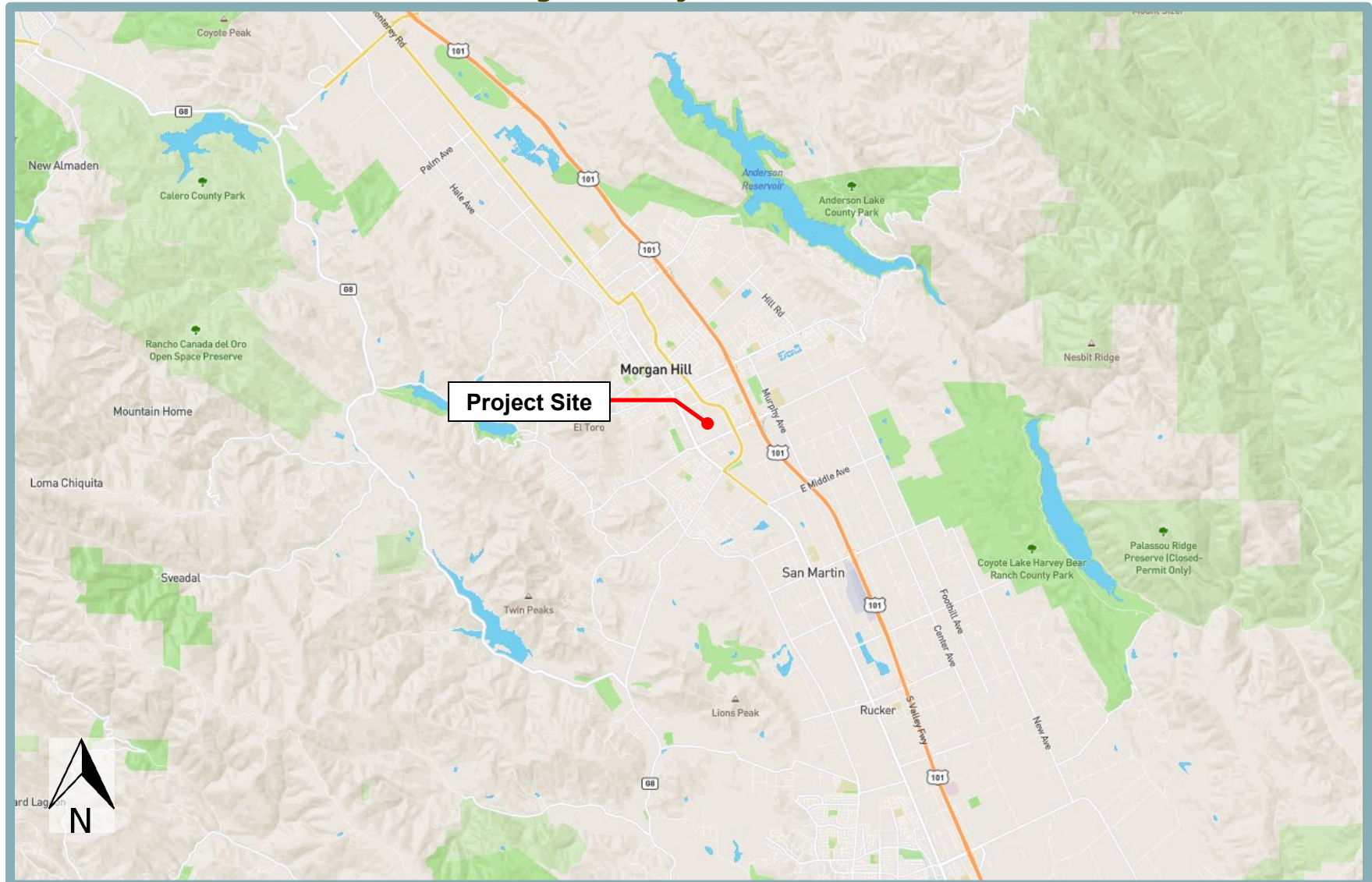
The project site currently consists of a gravel parking lot used as overflow parking for adjacent businesses, with two associated driveways off of Jacqueline Court. Trees are planted along the northern, eastern, and southern boundaries of the project site. Surrounding uses include an undeveloped parcel and a single-family residence to the north, across Barrett Avenue; an auto body shop (Advanced Auto Body) to the east; an industrial building, Railroad Avenue, Union Pacific Railroad (UPRR) tracks, and Morgan Hill Police Department to the west; manufacturing uses (Mission Bell Manufacturing Company) to the south; an automobile repair shop (Frank's Auto Service) to the southwest; and a seafood wholesale company (Lusamerica Foods Inc.) to the northwest.

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<sup>1</sup> City of Morgan Hill. *2035 General Plan, City of Morgan Hill*. Adopted July 2016.

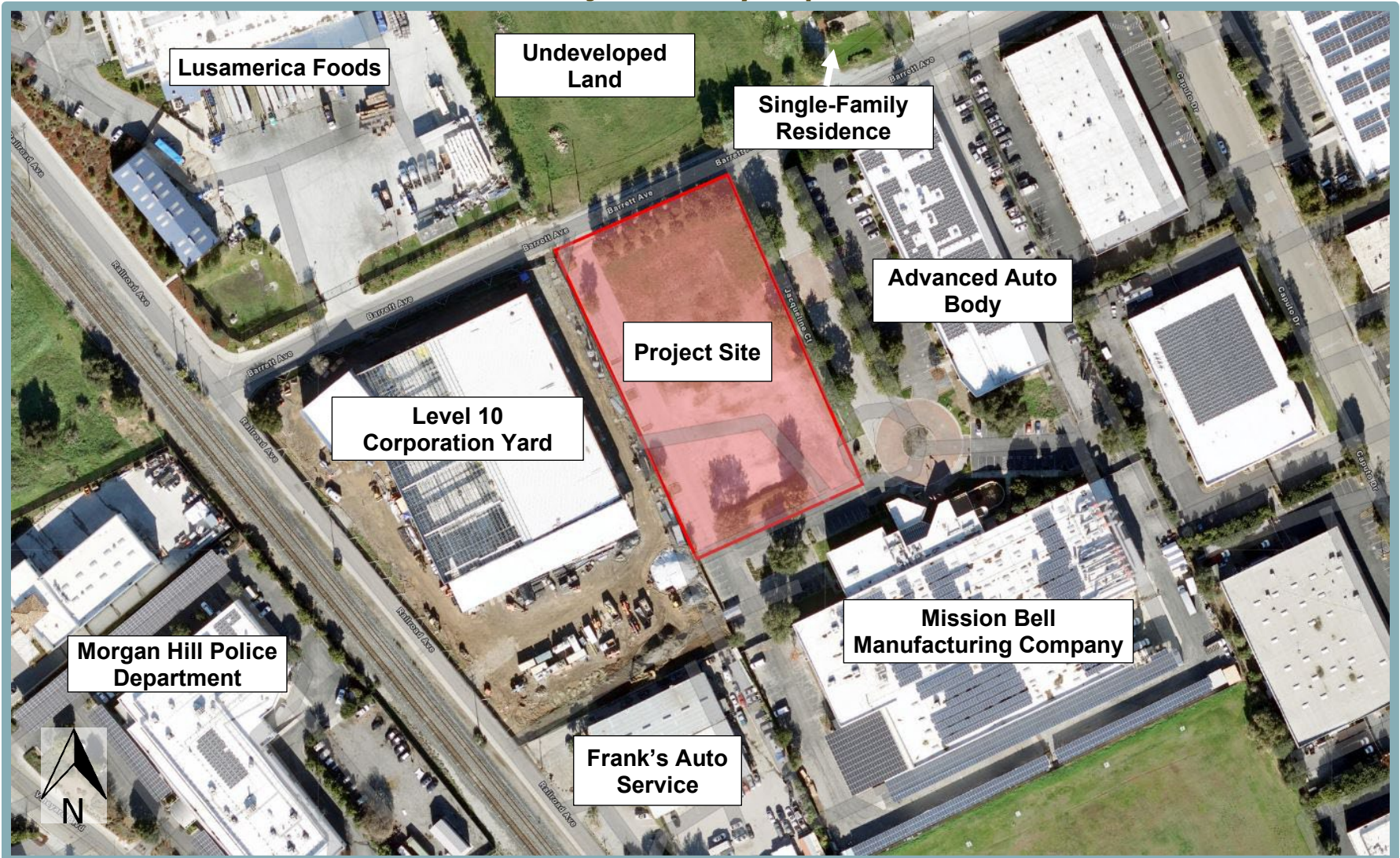
<sup>2</sup> City of Morgan Hill. *Morgan Hill 2035 Final Environmental Impact Report*. Adopted July 2016.

**Figure 1**  
**Regional Project Location**





**Figure 2  
Project Vicinity Map**



## **Project Components**

The proposed project would include a one-story, 24-foot-tall, 35,384-square-foot (sf), manufacturing/research building, an exterior walled-in trash enclosure, and associated improvements (see Figure 3). As shown in Figure 3, a 2,911-sf office would be located in the northeastern corner of the proposed building for potential future tenant use. The main entry door would be located on the southern side of the building, while two 12-foot-tall, grade level, roll-up doors would be located on the western side. On-site mechanical units, such as heating, ventilation, and air conditioning (HVAC) equipment would be mounted on the roof of the building. The proposed project would include new concrete decks and walkways throughout the project site, totaling 3,064 sf. Additionally, the proposed project would include the removal of 13 on-site trees.

Although the proposed building would be a speculative building, the end user is assumed to be a very light manufacturer or assembler based on other users in similar manufacturing buildings in the area. The proposed use of the building would be consistent with the site's current General Plan land use and zoning designations.

Primary access to the project site would be provided by an existing driveway from the roundabout at the terminus of Jacqueline Court to the east, as well as a new driveway along Barrett Avenue to the north. The remaining existing driveway along Jacqueline Court would be filled-in with a concrete curb and landscaping. The proposed site access points would provide ingress and egress service to the new paved parking lot with 103 parking spaces located along the perimeter of the project site surrounding the building. The paved parking lot would connect to an existing parking lot to the south. Of the 103 parking stalls, six would be Americans with Disabilities Act (ADA)-compliant and 57 would be reserved for electric vehicle (EV) charging, as well as 19 EV supply equipment (EVSE) spaces which are installed charging receptacles or permanently installed chargers. The proposed project would also include two bike racks with space for eleven bikes, as well as long-term storage space for six bikes. A 14-foot-high chain link fence would be placed along the eastern boundary of the project site.

Pursuant to Section 18.64.050 of the City's Municipal Code, landscaping would be provided throughout the site in accordance with the City's Standard Details for Construction. The proposed landscaping features in the Preliminary Landscape Plan would include new shrubs, trees, and groundcover elements along the project frontages (see Figure 4). In addition, new landscaped buffers would be provided along the length of the northern, eastern, and western site boundaries. The landscaped buffers would consist of evergreen hedges ranging from approximately five to six feet tall in height and width. Pursuant to the Preliminary Landscape Plan, the entire site would be serviced using a fully automatic irrigation system. The irrigation system would be largely a low-volume design.

Water and sewer service for the proposed development would be provided by the City through new connections to existing infrastructure within Barrett Avenue and Jacqueline Court, respectively (see Figure 5).



Figure 3  
Proposed Site Plan

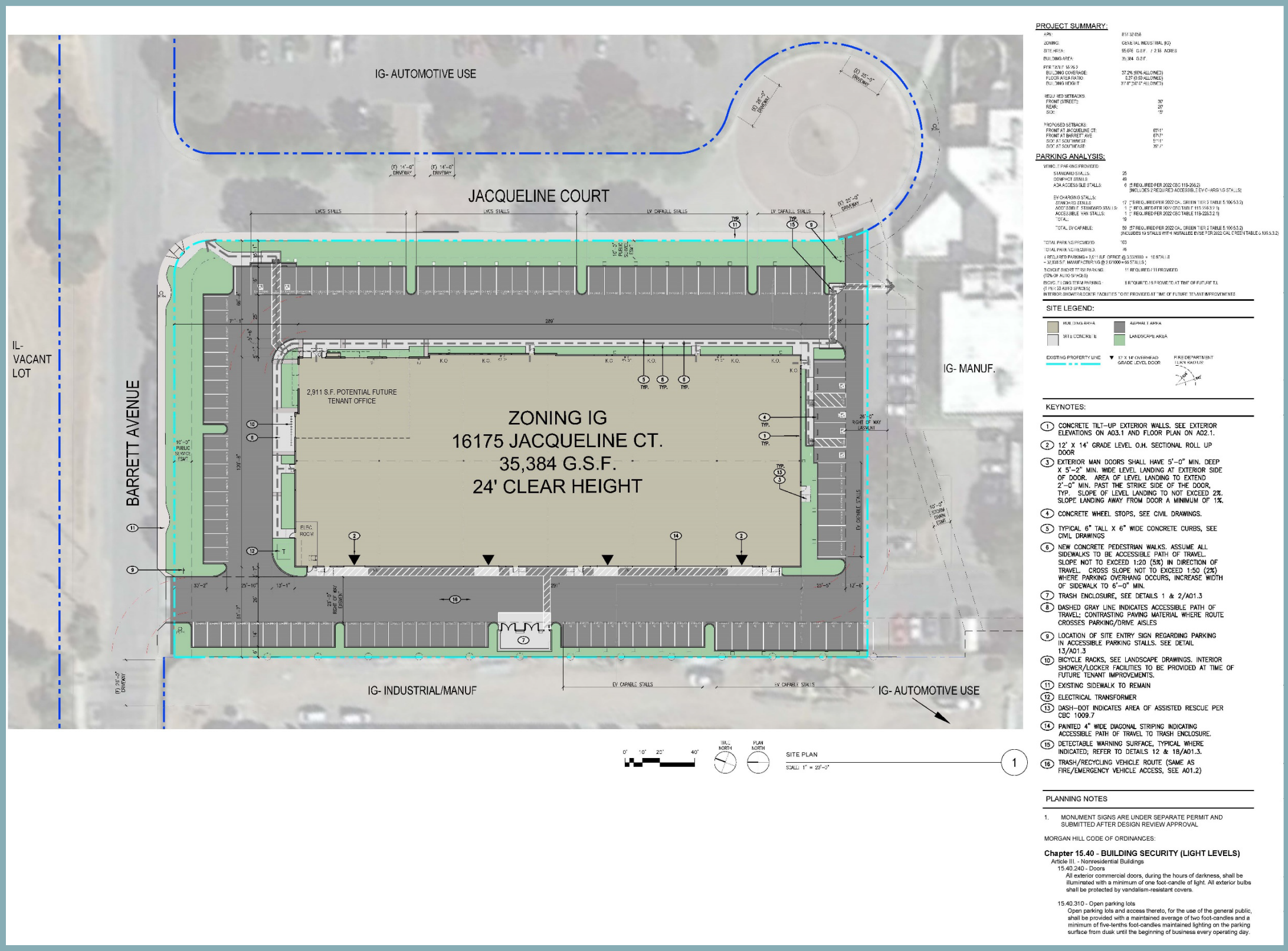


Figure 4  
Landscaping Plan

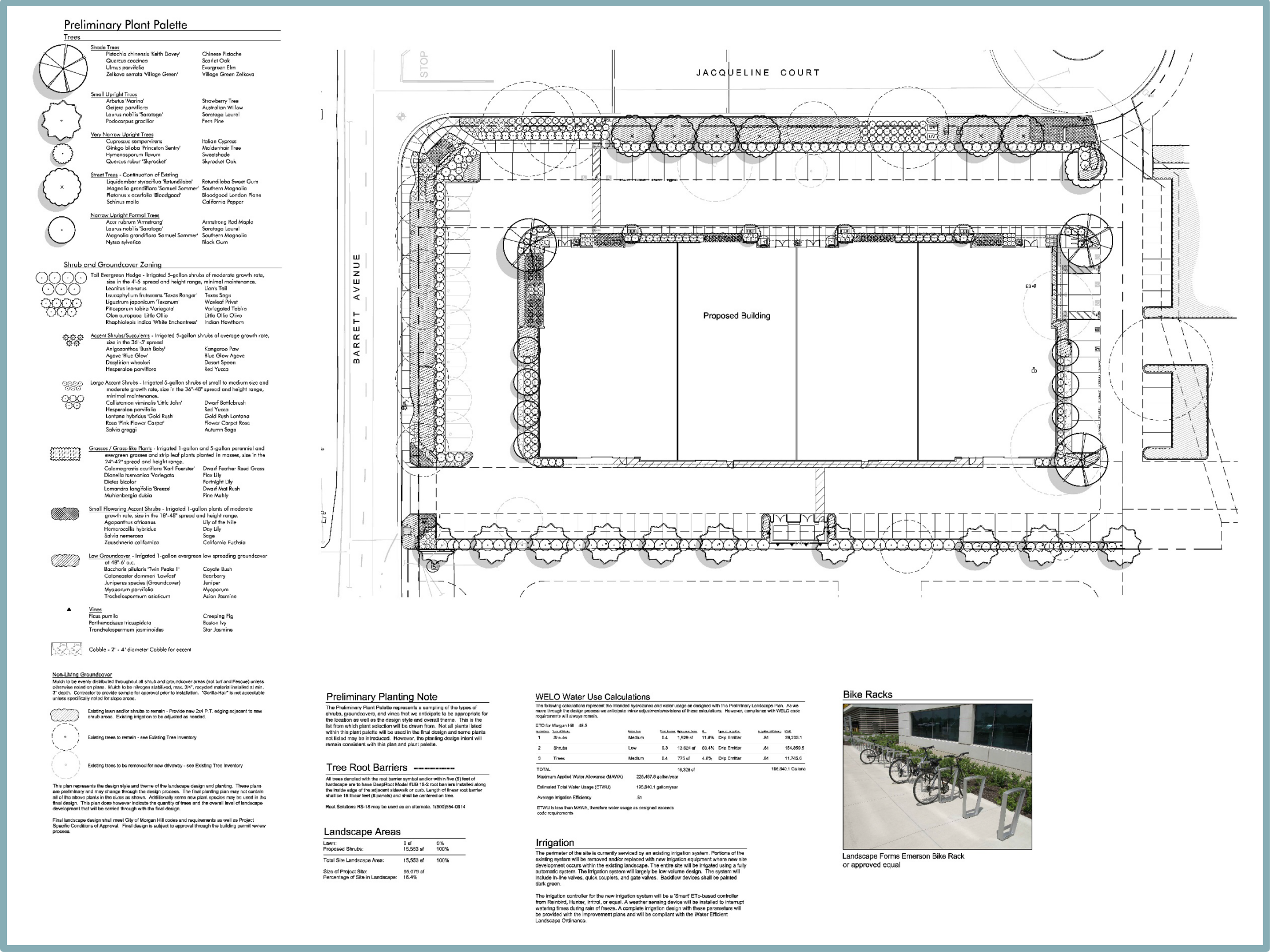
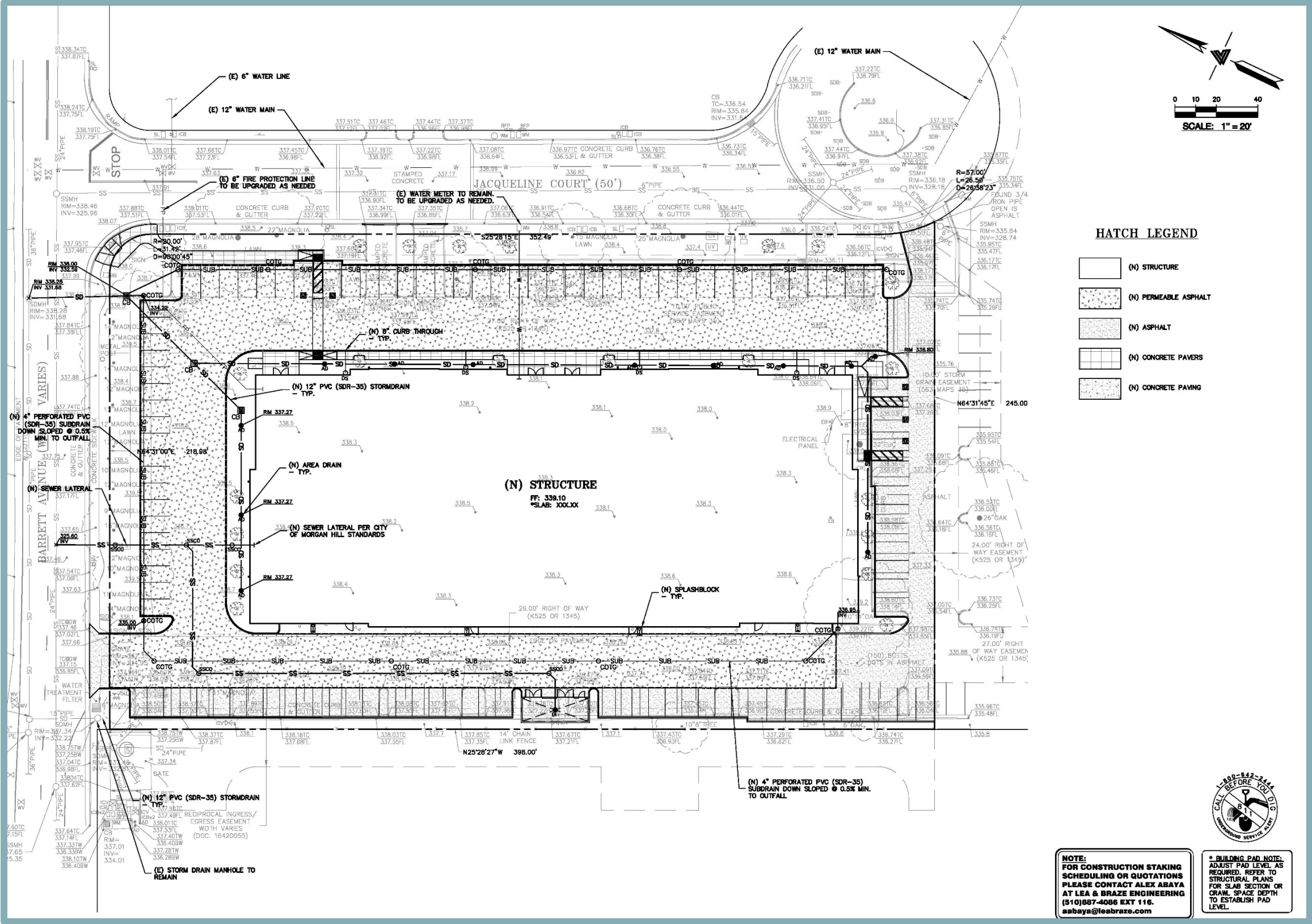




Figure 5  
Utility Plan



Per the Stormwater Control Plan, the parking lot surrounding the building would consist of permeable asphalt pavement, which would capture and provide treatment and detention to stormwater runoff. The permeable asphalt would have a minimum stormwater storage depth of 4.83 inches. Stormwater not captured by the permeable asphalt would flow by way of new underground storm drains and subdrains. The storm drain system would be located along the northern, eastern, and southern perimeter of the building and a down-sloping subdrain system would run adjacent to the eastern and western boundaries of the project site. The storm drain and subdrain system would collectively route runoff from several drains to the northeast corner of the project site towards the City's existing stormwater drain manholes located on Barrett Avenue.

### **Requested/Required Entitlements**

Pursuant to Section 18.76.070 of the City's Municipal Code, the proposed project would require approval of a Design Permit. A Design Permit is a discretionary action that enables the City to ensure that the proposed development exhibits high quality design consistent with the general plan and any other applicable specific plan or area plan adopted by the City Council. The Design Permit process is also intended to ensure that new development and uses are compatible with their surroundings and minimize negative impacts on neighboring properties.

## **C. DISCUSSION**

The following section contains substantial evidence showing that the proposed project can be considered exempt from CEQA and is not subject to any of the exceptions set forth in Section 15300.2 of the CEQA Guidelines. As demonstrated in the analysis below, the proposed project qualifies for exemption under CEQA Guidelines Section 15332, Class 32.

### **In-Fill Development Project Exemption**

Article 19 of the CEQA Guidelines, Sections 15300 through 15333, includes a list of classes of projects that have been determined not to have a significant effect on the environment, and are therefore exempt from CEQA. Section 15332 of the CEQA Guidelines provides a categorical exemption for infill development projects that meet the following criteria:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within the city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

The applicability of the above criteria to the proposed project is described in the following sections.

### **Criterion 15332(a): General Plan and Zoning Consistency**

The City's General Plan designates the site as Industrial and the site is zoned IG. The Industrial land use designation is intended for research, warehouse, manufacturing, service commercial, and office uses with a maximum floor-to-area ratio (FAR) of 0.6 and a maximum building height of 50 feet. The proposed manufacturing/research building would be consistent with the types of uses anticipated for the project site pursuant to the General Plan. In addition, the project would result in a FAR of 0.37 (35,384 sf/95,076 sf of site area), which is compatible with the City's maximum FAR for the Industrial land use designation. The proposed building would have a maximum height of 24 feet, which complies with the City's 50-foot building height limit for the designation.

With regard to zoning, pursuant to Section 18.26.010 of the City's Municipal Code, the purpose of the IG zoning district is to provide areas for general industrial, manufacturing, wholesale, and service uses needed by the City and region, subject to regulations necessary to protect other nearby uses from hazards, noise, and other disturbances. The proposed project would be consistent with the IG zoning designation and would comply with the development standards established for the IG district pursuant to Section 18.26.030 of the Municipal Code.

Furthermore, the proposed project would comply with applicable General Plan policies and zoning regulations adopted for the purpose of avoiding and/or mitigating adverse environmental effects. For example, Section 12.32.030 (Permit-Required) of the City of Morgan Hill's Municipal Code requires the approval of a tree removal permit before the removal of any Ordinance Sized Trees, defined as a non-indigenous tree with a circumference greater than 40 inches (approximately 12.7-inches in diameter) or any indigenous tree with circumference greater than 18 inches (approximately 5.7 inches in diameter). Indigenous tree means any tree native to the Morgan Hill region, such as oaks (all types), Sycamore, California Bay, Madrone, or Alder.

As part of an Arborist Report prepared for the proposed project by HortScience | Bartlett Consulting, all trees on and adjacent to the site were assessed to determine species, health, and suitability for preservation (see Appendix A).<sup>3</sup> A total of 28 trees were evaluated, including 13 off-site street trees that border the project site. Of the 28 trees, 21 trees are considered Ordinance Sized Trees pursuant to the City's Municipal Code. As shown in the Tree Assessment Plan included in the Arborist Report, of the 21 Ordinance Sized Trees, 13 trees are located on the project site and would require removal as part of the proposed project (see Figure 6). Therefore, the project applicant would be required to obtain a tree removal permit pursuant to Section 12.32.030 of the City's Municipal Code and provide for on-site replacement planting at a minimum 1:1 ratio. Pursuant to the Preliminary Landscape Plan prepared for the proposed project, the applicant proposes to plant 27 trees along the northern, eastern, and western frontages, as well as around the perimeter of the proposed building. With the planting of 27 trees, the minimum on-site replacement planting ratio would be exceeded. To ensure the preserved on-site trees are not impacted by development and maintain health and vitality throughout the clearing, grading, and construction phases, the prepared Arborist Report has included Tree Preservation Guidelines. The Tree Preservation Guidelines include design recommendations; pre-demolition and pre-construction treatments and recommendations; recommendations for tree protection during construction; and maintenance of impacted trees. As a condition of approval, the City of Morgan Hill would require the applicant to adhere to the Tree Preservation Guidelines. The Preliminary Landscape Plan would be subject to final City approval to ensure that the plan meets the replacement standards set forth in the City's Municipal Code. Thus, the proposed project would comply with local policies and ordinances protecting biological resources, particularly related to Chapter 12.32 of the Municipal Code.

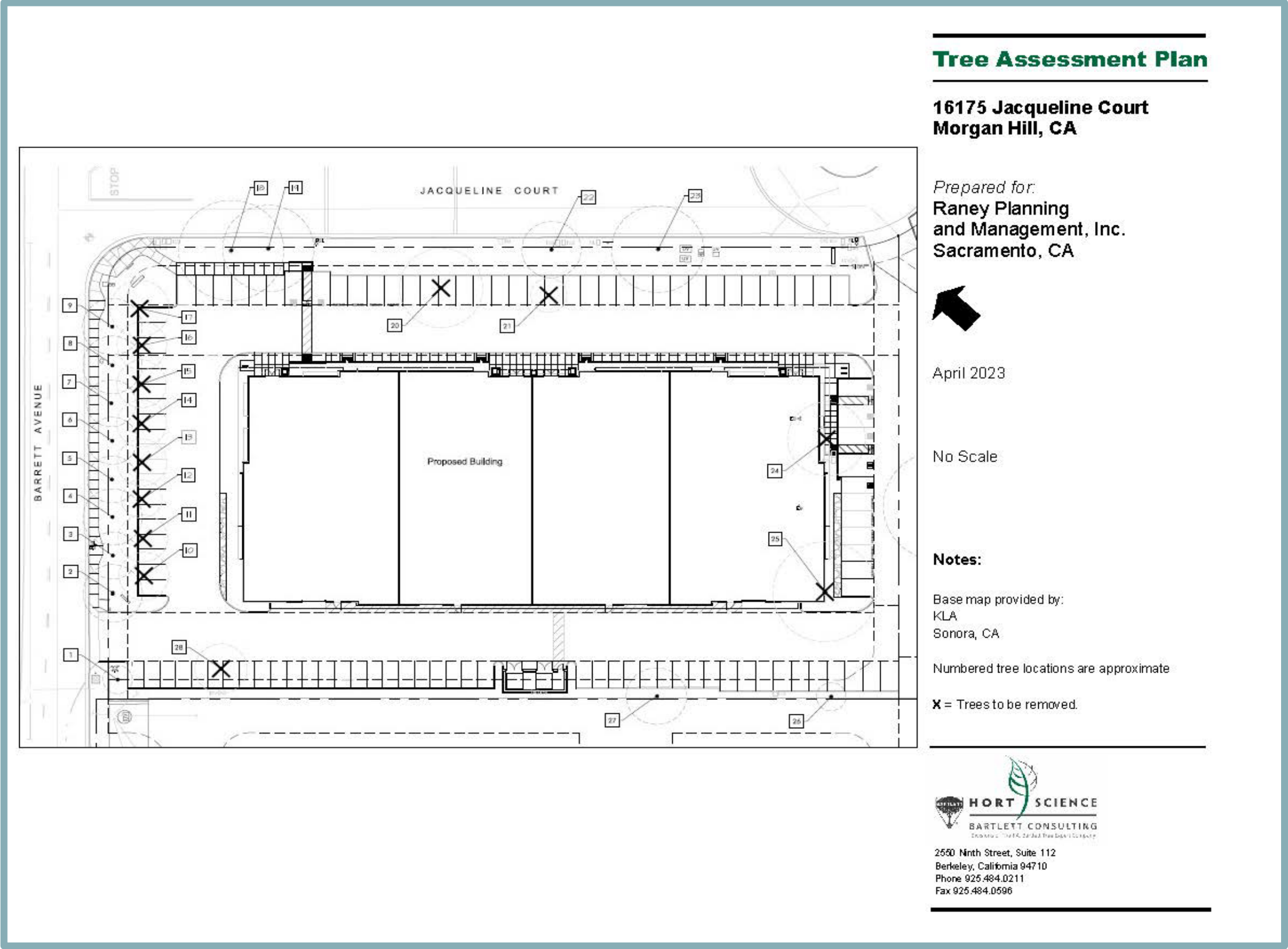
Additionally, the General Plan includes noise-related policies with which the project would be consistent. For example, as discussed further below, Section 18.76.090 (Noise) of the City's Municipal Code contains maximum noise levels for non-transportation noise sources, with which the project would not exceed, such as Policy SSI-8.5. Furthermore, Section 18.76.060 (Glare) of the Morgan Hill Municipal Code includes such requirements as cut-off lenses to direct light downward and minimum lighting standards for walkways to ensure safe nighttime conditions. The proposed project would include new parking lot and building lighting that would be required to

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<sup>3</sup> HortScience | Bartlett Consulting. *Arborist Report, 16175 Jacqueline Court, Morgan Hill, CA*. April, 2023.



Figure 6  
Tree Assessment Plan



adhere to all applicable policies and standards listed in the City's General Plan and Municipal Code.

General Plan Policy TR-3.4 sets forth the level of service (LOS) standards for the City of Morgan Hill intersections. While Section 15064.3 of the CEQA Guidelines provides that analysis of vehicle miles travelled (VMT) attributable to a project is the most appropriate measure of transportation impacts (see discussion of Traffic under Criterion 15332(d) below for analysis of VMT), the project must still comply with applicable General Plan policies, such as the LOS standards set forth by Policy TR-3.4. Based on the California Emissions Estimator Model (CalEEMod) results for the proposed project, as discussed in further detail under Criterion 15332(d) below, the proposed project is anticipated to result in approximately 138 average daily vehicle trips. Typically, AM or PM peak hour vehicle trips represent approximately 10 percent of the total daily vehicle trips. Based on such, the proposed project would result in approximately 14 new AM or PM peak hour vehicle trips. Pursuant to the Santa Clara Valley Transportation Authority (VTA) Congestion Management Program Transportation Impact Analysis (TIA) Guidelines, transportation impacts of all land uses that are projected to generate 100 or more net new weekday AM or PM peak hour trips are required to prepare a TIA. Because the proposed project would generate fewer peak hour trips than the VTA's significance criteria, a TIA is not required to be prepared for the proposed project. Therefore, the addition of project traffic would not be anticipated to result in the degradation of any nearby intersection's LOS during the AM and PM peak hours, and the proposed project would not conflict with General Plan Policy TR-3.4. Furthermore, because the proposed project would be consistent with the General Plan land use designation for the site, vehicle trip generation associated with the project site and associated effects on local transportation facilities have been generally anticipated by the City and accounted for in regional planning efforts. It should be noted that the City is currently developing the framework for new transportation policies based on the implementation of VMT as the primary measure of transportation impacts for CEQA purposes. The new policies will replace the City's current transportation policies that are based on LOS.

Based on the above, the proposed project meets Criterion 15332(a).

### **Criterion 15332(b): Project Location, Size, and Context**

The project site consists of a 2.18-acre parcel located within the Morgan Hill city limits and, thus, meets the criterion to be less than five acres and located within City limits. In addition, the site is bordered by existing industrial uses to the east, south, west, and northwest and, thus, meets the criterion to be substantially surrounded by urban uses. Thus, the proposed project meets Criterion 15332(b).

### **Criterion 15332(c): Endangered, Rare, or Threatened Species**

The project site is vacant and graveled, with scattered trees located along the northern, eastern, and southern site boundaries. Currently, the project site is used for overflow parking for adjacent businesses.

The project site is located within the boundaries of the Santa Clara Valley Habitat Plan (SCVHP) permit area. The SCVHP was developed through a partnership between Santa Clara County, the cities of San José, Morgan Hill, and Gilroy, the Santa Clara Valley Water District (SCVWD), the VTA, the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Wildlife (CDFW). The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The SCVHP provides take authorization for 18

covered species and includes conservation measures to protect the species covered by the SCVHP, as well as a conservation strategy designed to mitigate impacts on covered species and contribute to the recovery of the species in the study area.

Pursuant to the Santa Clara Valley Habitat Agency Geobrowser, the entirety of the project site consists of Urban - Suburban land cover, and 1.9 acres are within Fee Zone C (Small Vacant Sites Under 10 Acres) and 0.3-acre is within Urban Areas not subject to land cover fees. As set forth by Morgan Hill Municipal Code Section 18.132.050, compliance with the SCVHP requires payment of fees according to the Fee Zone designation of the property, payment of nitrogen deposition fees related to the number of anticipated car trips resulting from the development, and any surcharge fees that are required based on site-specific impacts to sensitive habitats or sensitive species.

The site is not included within the SCVHP Burrowing Owl Fee Zone. Generally, due to the highly disturbed nature of the project site and surrounding area, as well as the absence of aquatic resources, the project site does not provide habitat value for endangered, rare, or threatened plant or wildlife species. Thus, the proposed project meets Criterion 15332(c).

It should be noted that, while not considered special-status species, various migratory birds could potentially nest in the existing on-site trees and other vegetation. However, as part of the City's standard conditions of approval, a preconstruction survey for migratory birds would be required prior to removal of on-site trees.

### **Criterion 15332(d): Traffic, Noise, Air Quality, and Water Quality**

The following sections present analysis regarding potential effects related to traffic, noise, air quality, and water quality resulting from implementation of the proposed project.

#### Traffic

The City is undertaking a process of updating its General Plan policies to incorporate VMT methodologies and significance thresholds to be consistent with Senate Bill (SB) 743 but has not yet adopted thresholds of significance for VMT. However, the *Technical Advisory on Evaluating Transportation Impacts in CEQA* published by the Governor's Office of Planning and Research (OPR) in December 2018 provides recommendations regarding VMT evaluation methodology, significance thresholds, and screening thresholds for land use projects.<sup>4</sup> According to the OPR, certain projects are presumed to have a less-than-significant effect on VMT due to project size, project location, or project type. The Technical Advisory focuses primarily on residential, office, and retail projects, as such land use types tend to have the greatest influence on VMT. Industrial uses are not specifically addressed in the Technical Advisory. According to OPR, lead agencies may develop their own thresholds for such land use types and allow assessment on a case-by-case basis.

Although the OPR screening criteria are focused on residential, office, and retail projects, the proposed project would be below several of the screening thresholds set forth in the Technical Advisory. It should be noted that projects need only to meet one of the screening thresholds set forth in the Technical Advisory to be considered to have a less-than-significant effect on VMT. For example, the proposed project would be less than 50,000 sf, which is the screening size for a small, local-serving retail project. In addition, the Technical Advisory includes a map-based screening threshold, where projects that are located in areas with low VMT and incorporate similar

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<sup>4</sup> Governor's Office of Planning and Research. *Technical Advisory on Evaluation Transportation Impacts in CEQA*. December 2018.



features (i.e., density, mix of uses, transit accessibility) tend to exhibit similarly low VMT. Low VMT areas can be identified using a regional travel model, such as the Santa Clara Countywide (SCC) VMT Evaluation Tool developed by the VTA in collaboration with the 15 cities and towns of Santa Clara County, and the County of Santa Clara.<sup>5</sup> The tool identifies, based on project location, type of development, project description, and trip reduction measures, whether small- to medium-sized residential, office, and industrial land use projects within Santa Clara County fall within a low-VMT area according to the applicable jurisdiction's VMT threshold. According to the SCC VMT Evaluation Tool, the proposed project is located within a low VMT area and, thus, meets the map-based screening criterion. Another screening criterion of the Technical Advisory is whether a project is located within a certain proximity of an existing major transit station or corridor. According to the results of the SCC VMT Evaluation Tool, the project site is located in proximity to transit such that the project would meet the screening criterion. Specifically, the project site is located within one-half mile of the VTA bus line 68 run along Monterey Highway with bus service intervals of 15 minutes or less. Because the proposed project would meet several of the screening criteria set forth by the OPR's Technical Advisory, the proposed project would be considered to result in a less-than-significant impact related to VMT.

### Noise

During operation, the primary source of noise associated with the proposed project would be vehicle traffic noise generated on local roadways. In addition, the project has the potential to generate noise associated with on-site mechanical equipment, such as HVAC equipment, as well as with any loading or unloading activities at the roll-up doors.

Per Policy SSI-8.5 of the City's General Plan, noise level increases resulting from traffic associated with new projects is considered significant if: a) the noise level increase is 5 decibels (dBA) Day-Night Average Sound Level ( $L_{dn}$ ) or greater, with a future noise level of less than 60 dBA  $L_{dn}$ , or b) the noise level increase is 3 dBA  $L_{dn}$  or greater, with a future noise level of 60 dBA  $L_{dn}$  or greater. In addition, Section 18.76.090 of the Morgan Hill Municipal Code establishes maximum noise level standards for stationary noise sources. The standards are expressed in terms of decibels (dB). Such standards do not apply to noise generated by vehicle traffic in the public right-of-way or noise from temporary construction, demolition, and vehicles that enter and leave the site of the noise-generating use (e.g., construction equipment, trains, trucks).

Given that the project is consistent with the site's existing land use and zoning designations, traffic noise level increases associated with industrial development on the project site have been previously anticipated by the City. As such, the project would not result in traffic noise level increases beyond what has been analyzed in the General Plan EIR. As discussed previously, the project is estimated to generate approximately 138 average daily vehicle trips. Generally, a doubling in traffic volumes along a roadway is required to increase traffic noise levels by 3.0 dB, which is the level at which a change in noise is perceptible. Given the relatively small number of trips that would be generated by the proposed project, and the generally urbanized nature of the project area, the reasonable assumption can be made that the proposed project would not double traffic volumes on the local roadways. Thus, the proposed project would not substantially increase traffic noise in the project vicinity such that the City's General Plan standards would be exceeded.

The nearest existing noise-sensitive receptor to the project site would be a single-family residence located approximately 200 feet northeast of the project site, across Barrett Avenue. Non-transportation noise-generating operations associated with the proposed project would primarily

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<sup>5</sup> Santa Clara Countywide VMT Evaluation Tool. *Results*. Available at: <https://vmttool.vta.org/>. Accessed September 2023.

consist of HVAC equipment and any loading/unloading activities at the proposed roll-up doors. The HVAC equipment would be mounted on the roof of the building and would be typical of industrial uses. A typical 12.5-ton packaged HVAC unit would be expected to generate an A-weighted sound power level of 85 dB. Using the sound power level and assuming standard spherical spreading loss (-6 dB per doubling of distance), the proposed HVAC equipment noise exposure at the nearest receptor would be expected to be approximately 45 dB, which would be below the 60 dB maximum noise level standard for residential uses set forth by Section 18.76.090 of the Morgan Hill Municipal Code. Additionally, the proposed roll-up doors would be located on the western side of the building, opposite from the nearest sensitive receptor. Accordingly, any noise generated by loading/unloading activities at the roll-up doors would be shielded from the nearest residence by the proposed building. Overall, the proposed project would not result in any operational noise that would exceed applicable standards or cause any significant effects.

During construction, the project would result in short-term noise level increases in the project vicinity. However, the Morgan Hill Municipal Code does not specify any short-term construction noise level limits. In addition, Chapter 8.28 of the Morgan Hill Municipal Code prohibits construction activities between 8:00 PM and 7:00 AM, Monday through Friday, and between 6:00 PM and 9:00 AM on Saturdays. Construction activities may not occur on Sundays or federal holidays. Construction activities related to the proposed project would include the use of sound-dampening equipment such as mufflers, air-inlet silencers, shrouds, shields, or other noise-reducing features where appropriate.

### Air Quality

The City of Morgan Hill is located in the San Francisco Bay Area Air Basin (SFBAAB), which is under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The SFBAAB area is currently designated as a nonattainment area for State and federal ozone, State and federal fine particulate matter 2.5 microns in diameter (PM<sub>2.5</sub>), and State respirable particulate matter 10 microns in diameter (PM<sub>10</sub>) ambient air quality standards (AAQS). The SFBAAB is designated attainment or unclassified for all other AAQS.

In compliance with regulations, due to the nonattainment designations of the area, the BAAQMD periodically prepares and updates air quality plans that provide emission reduction strategies to achieve attainment of the AAQS, including control strategies to reduce air pollutant emissions through regulations, incentive programs, public education, and partnerships with other agencies. The current air quality plans are prepared in cooperation with the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG).

The most recent federal ozone plan is the 2001 Ozone Attainment Plan, which was adopted on October 24, 2001 and approved by the California Air Resources Board (CARB) on November 1, 2001. The plan was submitted to the U.S. Environmental Protection Agency (USEPA) on November 30, 2001 for review and approval. The most recent State ozone plan is the 2017 Clean Air Plan, adopted on April 19, 2017. The 2017 Clean Air Plan was developed as a multi-pollutant plan that provides an integrated control strategy to reduce ozone, PM, toxic air contaminants (TACs), and greenhouse gases (GHGs). Although a plan for achieving the State PM<sub>10</sub> standard is not required, the BAAQMD has prioritized measures to reduce PM in developing the control strategy for the 2017 Clean Air Plan. The control strategy serves as the backbone of the BAAQMD's current PM control program.

The aforementioned air quality plans contain mobile source controls, stationary source controls, and transportation control measures to be implemented in the region to attain the State and federal AAQS within the SFBAAB. Adopted BAAQMD rules and regulations, as well as thresholds of significance, have been developed with the intent to ensure continued attainment of AAQS, or

to work towards attainment of AAQS for which the area is currently designated nonattainment, consistent with applicable air quality plans. For development projects, BAAQMD has established significance thresholds for emissions of the ozone precursors reactive organic gases (ROG) and oxides of nitrogen (NO<sub>x</sub>), as well as for PM<sub>10</sub>, and PM<sub>2.5</sub>, expressed in pounds per day (lbs/day) and tons per year (tons/yr). The thresholds are listed in Table 1. Thus, by exceeding the BAAQMD's mass emission thresholds for operational emissions of ROG, NO<sub>x</sub>, or PM<sub>10</sub>, a project would be considered to conflict with or obstruct implementation of the BAAQMD's air quality planning efforts.

<b>Table 1 BAAQMD Thresholds of Significance</b>			
<b>Pollutant</b>	<b>Construction</b>	<b>Operational</b>	
	<b>Average Daily Emissions (lbs/day)</b>	<b>Average Daily Emissions (lbs/day)</b>	<b>Maximum Annual Emissions (tons/year)</b>
ROG	54	54	10
NO <sub>x</sub>	54	54	10
PM <sub>10</sub> (exhaust)	82	82	15
PM <sub>2.5</sub> (exhaust)	54	54	10
<i>Source: BAAQMD, CEQA Guidelines, April 2023.</i>			

Emissions of particulate matter can be split into two categories: fugitive emissions and exhaust emissions. The BAAQMD thresholds of significance for exhaust PM emissions are presented in Table 1. The BAAQMD does not maintain quantitative thresholds for fugitive emissions of PM<sub>10</sub> or PM<sub>2.5</sub>; rather, BAAQMD requires all projects within the district's jurisdiction to implement Basic Construction Mitigation Measures (BCMMs) related to dust suppression. The BCMMs include the following:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
7. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
8. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a six- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
9. Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.

In addition to the BCMMs, projects are strongly encouraged to implement enhanced best management practices to control fugitive dust emissions. The enhanced measures are especially important when schools, residential areas, or other sensitive land uses are located near the



construction site. BAAQMD recommended enhanced best management practices include the following:

1. Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities.
2. Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
3. Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible and watered appropriately until vegetation is established.
4. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.
5. Minimize the amount of excavated material or waste materials stored at the site.
6. Hydroseed or apply non-toxic soil stabilizers to construction areas, including previously graded areas, that are inactive for at least 10 calendar days.

The proposed project's construction and operational emissions were quantified using the California Emissions Estimator Model (CalEEMod) software version 2020.4.0 – a statewide model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify air quality emissions, including GHG emissions, from land use projects. The model applies inherent default values for various land uses, including construction data, trip generation rates, vehicle mix, trip length, average speed, etc. However, where project-specific data is available, such data should be input into the model. Accordingly, the proposed project's modeling assumes that construction would commence in October 2023 and take place over approximately one year. In addition, the model accounted for approximately 2,140 cubic yards (CY) of soil anticipated to be exported from the site during grading activities.

The proposed project's estimated emissions associated with construction and operations are provided below. All CalEEMod results are included as Appendix B to this Memorandum.

### *Construction Criteria Pollutant Emissions*

According to the CalEEMod results, the proposed project would result in maximum construction criteria air pollutant emissions as shown in Table 2.

<b>Table 2</b>			
<b>Maximum Construction Emissions (lbs/day)</b>			
<b>Pollutant</b>	<b>Proposed Project Emissions</b>	<b>Threshold of Significance</b>	<b>Exceeds Threshold?</b>
ROG	3.95	54	<b>NO</b>
NO <sub>x</sub>	15.95	54	<b>NO</b>
PM <sub>10</sub> *	0.69	82	<b>NO</b>
PM <sub>2.5</sub> *	0.66	54	<b>NO</b>
Note: * Denotes emissions from exhaust only. BAAQMD does not have adopted thresholds for fugitive PM emissions.			
<b>Source: CalEEMod, May 2023 (see Appendix B).</b>			

As shown in Table 2, the proposed project's construction emissions would be below the applicable thresholds of significance. In addition, as discussed above, all projects within the jurisdiction of the BAAQMD are required to implement all of the BAAQMD's BCMMs. The proposed project's required implementation of the BAAQMD's BCMMs listed above for the project's construction activities, would help to further minimize construction-related emissions.

Because the proposed project's construction emissions would be below the applicable thresholds of significance for construction emissions, project construction would not result in a significant air quality impact.

### *Operational Criteria Pollutant Emissions*

According to the CalEEMod results, the proposed project would result in maximum operational criteria air pollutant emissions as shown in Table 3. The proposed project's operational emissions would be below the applicable thresholds of significance. As such, the proposed project would not result in a significant air quality impact during operations.

<b>Table 3</b>					
<b>Unmitigated Maximum Operational Emissions</b>					
<b>Pollutant</b>	<b>Proposed Project Emissions</b>		<b>Threshold of Significance</b>		<b>Exceeds Threshold?</b>
	<b>lbs/day</b>	<b>tons/yr</b>	<b>lbs/day</b>	<b>tons/yr</b>	
ROG	1.54	0.24	54	10	<b>NO</b>
NO <sub>x</sub>	0.98	0.13	54	10	<b>NO</b>
PM <sub>10</sub> *	0.03	0.005	82	15	<b>NO</b>
PM <sub>2.5</sub> *	0.03	0.004	54	10	<b>NO</b>
Note: * Denotes emissions from exhaust only. BAAQMD does not have adopted thresholds for fugitive PM emissions.					
<b>Source: CalEEMod, May 2023 (see Appendix B).</b>					

### *Greenhouse Gas Emissions*

The BAAQMD's adopted GHG thresholds are qualitative and address recent climate change legislation, including SB 32. The thresholds of significance require that a project must either include specific project design elements (e.g., exclude use of natural gas, achieve a specific reduction in project-generated VMT below the regional average) or be consistent with a local GHG reduction strategy that meets the criteria pursuant to State CEQA Guidelines Section 15183.5(b).<sup>6</sup> In December of 2021, the City of Morgan Hill adopted a Climate Action Plan (CAP); however, the City's CAP does not qualify as a local GHG reduction strategy under CEQA Guidelines Section 15183.5(b). Therefore, the City has determined that the BAAQMD thresholds of significance are appropriate for the analysis of the proposed project, and the following analysis focuses on the BAAQMD GHG thresholds related to specific project design elements.

According to the BAAQMD's thresholds of significance, in order to find a less-than-significant GHG impact, projects must include, at a minimum, the following project design elements:

- The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development);
- The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines;
- The project will achieve a reduction in project-generated VMT below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted SB 743 VMT target, reflecting the recommendations

<sup>6</sup> Bay Area Air Quality Management District. *CEQA Thresholds for Evaluating the Significance of Climate Impacts From Land Use Projects and Plans*. April 2022.

provided in the OPR's Technical Advisory on Evaluating Transportation Impacts in CEQA; and

- The project will achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.

In order to be consistent with the first criterion, the proposed project is required to include all electric appliances and plumbing. Natural gas is prohibited in all new construction within the City pursuant to City Ordinance No. 2306. Therefore, the proposed project would not include the use of natural gas appliances or natural gas plumbing and, thus, would comply with the first BAAQMD GHG criterion.

Regarding the second criterion, the proposed project would comply with all applicable federal, State, and local regulations regarding energy use during both project construction and project operations, such as the California Green Building Standards Code (CALGreen Code) and the Building Energy Efficiency Standards. Requirements of the CALGreen Code that would be applicable to the proposed project include, but are not limited to, the following measures:

- Compliance with relevant regulations related to future installation of Electric Vehicle charging infrastructure;
- Indoor water use consumption is reduced through the establishment of maximum fixture water use rates;
- Outdoor landscaping must comply with the California Department of Water Resources' Model Water Efficient Landscape Ordinance (MWELO), or a local ordinance, whichever is more stringent, to reduce outdoor water use;
- Diversion of 65 percent of construction and demolition waste from landfills; and
- Mandatory use of low-pollutant emitting interior finish materials such as paints, carpet, vinyl flooring, and particle board.

Adherence to the most recent CALGreen Code and the Building Energy Efficiency Standards would ensure that the proposed structure would consume energy efficiently through the incorporation of such features as door and window interlocks, direct digital controls for HVAC systems, and high efficiency outdoor lighting. In addition, all construction equipment and operation thereof would be regulated by the CARB In-Use Off-Road Diesel Vehicle Regulation. The In-Use Off-Road Diesel Vehicle Regulation is intended to reduce emissions from in-use, off-road, heavy-duty diesel vehicles in California by imposing limits on idling, requiring all vehicles to be reported to CARB, restricting the addition of older vehicles into fleets, and requiring fleets to reduce emissions by retiring, replacing, or repowering older engines, or installing exhaust retrofits. Required compliance with applicable standards and regulations would ensure that energy use associated with the proposed project would not be wasteful, inefficient, or unnecessary. Therefore, the proposed project would comply with the second BAAQMD GHG criterion.

With respect to the third criterion, as discussed above, the proposed project would meet several of the screening criteria set forth by the OPR's Technical Advisory and would be considered to result in a less-than-significant impact related to VMT. As a result, the proposed project would comply with the third BAAQMD GHG criterion.

With respect to the fourth criterion, the proposed project would be subject to the nonresidential requirements set forth in the CALGreen Code standards. The proposed project would include a total of 103 new on-site parking spaces. Based on the Tier 2 CALGreen Code standards, nonresidential uses with between 101 and 150 total parking spaces are required to provide 57 EV capable on-site



spaces, and 19 of the EV capable spaces are required to include EVSE, which are installed charging receptacles or permanently installed chargers. As shown on the project site plan (see Figure 3), the proposed project would allocate a total of 57 EV capable and 19 EVSE spaces on-site, in accordance with the nonresidential Tier 2 CALGreen Code standards. As such, the proposed project would comply with the fourth BAAQMD GHG criterion.

Based on the above, the proposed project would not conflict with the BAAQMD's GHG thresholds of significance and, thus, would not conflict with the State's latest climate legislation.

### *Air Quality Conclusion*

As discussed above, the proposed project is not anticipated to result in short-term construction-related or long-term operational emissions of air quality pollutants or GHG that would be considered to have the potential to result in significant effects on the environment.

### Water Quality

Water quality degradation is regulated by the federal National Pollutant Discharge Elimination System (NPDES) Program, established by the Clean Water Act, which controls and reduces pollutants to water bodies from point and non-point discharges. In California, the NPDES permitting program is administered by the State Water Resources Control Board (SWRCB) through nine Regional Water Quality Control Boards (RWQCBs). New development within the City that disturbs one or more acres of land is required to comply with the NPDES General Construction Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) incorporating Best Management Practices (BMPs) to control sedimentation, erosion, and hazardous materials contamination of runoff during construction. The proposed project would disturb approximately 2.18 acres, and, thus, would be subject to the State NPDES General Permit conditions.

The proposed project would also be subject to all regional and local water quality regulations. In order to meet water quality objectives for the region, the City of Morgan Hill, City of Gilroy, and County of Santa Clara have prepared and are implementing a Revised Regional Storm Water Management Plan (SWMP). The SWMP incorporates the efforts of the City of Morgan Hill, the City of Gilroy, and the unincorporated portion of Santa Clara County, within the watershed of the Pajaro River and Monterey Bay, to meet the Phase II Storm Water Permit requirements for small municipal separate storm sewer systems (MS4s). The Upper Pajaro River Watershed is located within the jurisdiction of the Central Coast Regional Water Quality Control Board (CCRWQCB). The City of Morgan Hill implements the SWMP through an extensive program that entails: 1) the establishment of SWMP goals for the City; 2) public education and outreach; 3) public involvement and participation; 4) illicit discharge control; 5) construction site storm water runoff control; 6) post-construction stormwater management in development; and 7) pollution prevention. For construction activities, the SWMP presents BMPs that are required for the control of storm water runoff quality during construction.

With regard to potential adverse effects to water quality during operations, the proposed project would be managed in accordance with Resolution R3-2013-0032 issued by the CCRWQB. This resolution formally adopts post-construction stormwater management requirements for development projects in the Central Coast Region. The requirements identify 10 Watershed Management Zones (WMZs) in the covered area, and specify stormwater management requirements for each zone, depending on the size of the development project. Because the project site is located in an area classified as WMZ-2, the proposed project would be required to include site design and runoff features to limit the amount of runoff from the project site, as well

as on-site water quality treatment to reduce pollutant loads in the stormwater runoff using a Low Impact Development (LID) treatment system such as biofiltration.

The proposed project would include permeable asphalt pavement within the parking lot surrounding the building, which would capture stormwater runoff from the impervious surfaces within the site. Stormwater would seep through the surface of the permeable asphalt pavement down to underlying layers of soil and gravel, as well as drains to prevent water from accumulating under the pavement. Excess stormwater runoff not captured by the permeable asphalt pavement would flow by way of new underground stormwater drains and subdrains. The stormwater drains and subdrains would route runoff to the City's existing stormwater infrastructure in Barrett Avenue. Pursuant to the Stormwater Control Plan prepared for the proposed project, the proposed permeable asphalt would provide sufficient treatment of on-site runoff in accordance with applicable County and City regulations.

Based on the above, the proposed project would not result in any significant effects related to water quality; thus, the project would meet criterion 15332(d).

### **Criterion 15332(a): Utilities and Public Services**

Water and sewer service for the proposed development would be provided by the City through new connections to existing infrastructure within Barrett Avenue (see Figure 5). As discussed previously, stormwater runoff from the site would be captured through the permeable asphalt pavement. The storm drain and subdrain system would route excess runoff to the City's existing stormwater infrastructure in Barrett Avenue. Given the presence of existing utilities in the immediate project vicinity, the proposed project would not require substantial off-site utility improvements. In addition, given that the proposed project is consistent with the site's current General Plan land use and zoning designations, increases in demand on existing utilities and public services associated with the project have been previously anticipated in the General Plan and accounted for in local planning efforts. Thus, the site would be adequately served by all required utilities and public services.

### **Exceptions to Categorical Exemptions analysis**

Even if a project is ordinarily exempt under any of the potential categorical exemptions, CEQA Guidelines Section 15300.2 provides specific instances where exceptions to otherwise applicable exemptions apply. Exceptions to a categorical exemption apply in the following circumstances:

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

The following analysis addresses whether any of the exceptions to the CEQA exemption apply to the proposed project.

### **Criterion 15300.2(a): Location**

CEQA exemptions 3, 4, 5, 6, or 11, are qualified by consideration of where the project is to be located. Given that the proposed project qualifies for exemption under CEQA Guidelines Section 15332, Class 32, an exception to the exemption under CEQA Guidelines Section 15300.2(a) does not apply to the proposed project.

### **Criterion 15300.2(b): Cumulative Impact**

Per CEQA Section 15300.2(b), in applying this exception, the cumulative impact must result from “successive projects of the same type in the same place.” Both the “same type” and “same place” limitations restrict the scope of this exception.<sup>7</sup> The project site is located within an industrial area, which is mostly developed. Currently, one property (Level 10 Corporation Yard) is under-construction at 16290 Railroad Avenue, which is west of the project site. The Level 10 Corporation Yard project involves development of a one-story warehouse/corporation yard, a two-story office building, and exterior covered storage area, and associated improvements totaling at 68,045 sf. The Level 10 Corporation Yard project is consistent with the General Plan land use and zoning designations for that site and, thus, was previously anticipated by the City and analyzed in the General Plan EIR.

Because the proposed project is consistent with the project site’s General Plan land use and zoning designations, cumulative impacts associated with buildout of the project site, as well as development of other industrial uses in the project area consistent with the City’s General Plan land use and zoning designations, have been previously anticipated by the City and analyzed in the General Plan EIR. As discussed above, the project would not require substantial off-site utility upsizing or other related improvements with the potential to result in cumulatively considerable impacts. Thus, the project does not include any unique features that would result in new or more severe cumulative impacts beyond what has been analyzed in the General Plan EIR, and an exception to the exemption under CEQA Guidelines Section 15300.2(b) does not apply to the proposed project.

### **Criterion 15300.2(c): Significant Effect**

In listing a class of projects as exempt, the Secretary has determined that the environmental changes typically associated with projects in that class are not significant effects within the meaning of CEQA, even though an argument might be made that they are potentially significant. The plain language of *Guidelines Section 15300.2, subdivision (c)*, requires that a potentially significant effect must be “due to unusual circumstances” for the exception to apply.

The determination as to whether there are “unusual circumstances” (*Guidelines, § 15300.2, subd. (c)*) is reviewed under PRC *Section 21168.5*’s substantial evidence prong. Whether a particular

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<sup>7</sup> Stephen L. Kostka and Michael H. Zischke. *Practice Under the California Environmental Quality Act, Second Edition* [pg. 5-68]. March 2019 Update.



project presents circumstances that are unusual for projects in an exempt class is an essentially factual inquiry. As to this question, the lead agency serves as “the finder of fact”.

As the courts have noted, local conditions are relevant in determining whether the environmental effects of a proposed project are unusual or typical. In general, the project site does not contain any unique or unusual features with the potential to result in a potentially significant effect. The project site consists of a vacant lot and is similar to other infill industrial parcels in the immediate vicinity of the site. The project site does not include any aquatic features and, as discussed further below, is not included on any lists of hazardous waste sites. Thus, an exception to the exemption under CEQA Guidelines Section 15300.2(c) does not apply to the proposed project.

### **Criterion 15300.2(d): Scenic Highway**

According to the California Department of Transportation (Caltrans) Scenic Highway Mapping System, officially designated State or County scenic highways do not occur in the project vicinity.<sup>8</sup> Thus, an exception to the exemption under CEQA Guidelines Section 15300.2(d) does not apply to the proposed project.

### **Criterion 15300.2(e): Hazardous Waste Sites**

The California Environmental Protection Agency provides a list of data resources that provide information regarding the facilities or sites identified as meeting the “Cortese List” requirements, pursuant to Government Code 65962.5. Pursuant to the Phase I Environmental Site Assessment (ESA) prepared for the proposed project by AEI Consultants (see Appendix C), the project site is not located on any list compiled pursuant to Section 65962.5 of the Government Code.<sup>9</sup> Thus, an exception to the exemption under CEQA Guidelines Section 15300.2(e) does not apply to the proposed project.

### **Criterion 15300.2(f): Historical Resources**

The project site consists of a vacant lot and does not contain any structures. Therefore, the proposed project would not result in a substantial adverse change in the significance of a historical resource, and an exception to the exemption under CEQA Guidelines Section 15300.2(f) does not apply to the proposed project.

## **D. CONCLUSION**

This Memorandum demonstrates that the proposed project can be considered exempt from CEQA under Section 15332, and does not meet any of the exceptions to categorical exemptions set forth in Section 15300.2 of the CEQA Guidelines.

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<sup>8</sup> California Department of Transportation. *Scenic Highways*. Available at: <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>. Accessed May 2023.

<sup>9</sup> AEI Consultants. *Phase I Environmental Site Assessment Report, 16100 and 16175 Jacqueline Court, Morgan Hill, California 95037*. November 23, 2021.

**Appendix A**  
**Arborist Report**

## **Appendix B**

### **Air Quality and Greenhouse Gas Modeling Results**



## **Appendix C**

### **Phase I Environmental Site Assessment**