

**Initial Study**

Ten-Lot Subdivision

14521 Quito Road

Saratoga, CA

(APN 397-05-028)

**Owner:**

Maria Orlando-Hinz Trustee

**Public Review Period**

**September 1, 2022 to September 30, 2022**

The City of Saratoga, as the Lead Agency, has prepared this Initial Study/Mitigated Negative Declaration for a proposed ten-lot subdivision at 14521 Quito Road (Project). The Project also includes demolition of three existing structures including a single-family home, an ancillary building and an inground swimming pool. Subdivision improvements include the construction of a private cul-de-sac and associated utility and drainage facilities.

If the subdivision is approved, it would allow for the construction of ten new single-family homes each with an accessory dwelling unit (ADU). In accordance with California Environmental Quality Act of 1970 (CEQA) (Pub Resources Codes § 21000 *et seq.*) and CEQA Guidelines (14 Cal Code Regs., 15000 *et seq.*) this document, combined with the attached supporting data and exhibits, constitutes the Initial Study/Mitigated Negative Declaration on the subject Project. This Initial Study/Mitigated Negative Declaration (IS/MND) provides the basis for the determination that with mitigation measures, this Project will not have a significant effect on the environment.

**PUBLIC REVIEW**

In accordance with CEQA and the CEQA Guidelines, a 20-day public review period for this IS/MND commenced on September 1, 2022 and will conclude on September 30, 2022. During this period, the IS/MND will be available to local, state, and federal agencies and to interested organizations and individuals for review. All written comments must be received prior to 5:00 P.M. on September 30, 2022. Please submit written comments to:

Christopher Riordan, Senior Planner

City of Saratoga

13777 Fruitvale Avenue

Saratoga, CA 95070

[criordan@saratoga.ca.us](mailto:criordan@saratoga.ca.us)

Following the conclusion of the public review period, the Planning Commission will consider the IS/MND for the Project at a publicly noticed meeting. The Planning Commission shall consider the IS/MND together with any comments received during the public review process. The Planning Commission will provide a recommendation to the City Council regarding the Project and the IS/MND.

**A. PROJECT OVERVIEW**

1. Project title: Ten-Lot subdivision at 14521 Quito Road
2. Lead agency name and address: City of Saratoga; Planning Division

13777 Fruitvale Avenue; Saratoga, CA 95070

1. Contact person and phone number: Christopher Riordan, Senior Planner

[criordan@saratoga.ca.us](mailto:criordan@saratoga.ca.us) / (408) 868-1235

1. Project location/APN: 14521 Quito Road, Saratoga, CA 95070

(APN 397-05-028)

1. Project Applicant name and address: Pinn Brothers Development

Jeff Curran

12382 Saratoga-Sunnyvale Road

Saratoga, CA 95070

1. Property Owner name and address: Maria Orlando-Hinz Trustee

860 Hermiston Drive

San Jose, CA 95136

1. General Plan Designation: Residential Very Low Density (RVLD)
2. Zoning: Single Family Residential (R-1-40,000)

Description of Project: The Project Applicant, Pinn Brothers Development, is proposing to subdivide an existing 11.43-acre parcel located at 14521 Quito Road into ten-lots ranging in size from .92 acres to 1.2 acres. The location of the Project site is shown on Figure 1. The Project would create a new private cul-de-sac with a connection to Quito Road. The private street would provide access to seven parcels and the remaining three parcels would take access from Vessing Road. A .34-acre portion of the site (Lot A) is located on the opposite side of Quito Road and would be dedicated to the City of Saratoga for open space use. The Project subdivision improvements (road and storm drain improvements) would require the removal of 56 protected trees. If the subdivision is approved, it would allow for the construction of ten, new single-family homes and accessory dwelling units. The Tentative Map is shown on Figure 2 (Exhibit A).

1. Surrounding land uses and setting: The Project site is located at 14521 Quito Road. The site is bounded to the north by single family homes, to the east by Quito Road, to the south by Vessing Road, and to the west by Single family homes. To the east across Quito Road is San Tomas Aquino Creek, which is the City boundary line with the Town of Los Gatos. San Tomas Aquino Creek crosses under Quito Road onto the project site and runs north through the north-eastern corner of the site along Quito Road.

There are three existing structures on site that are accessible from an unpaved driveway off Quito Road. The three structures include a single-family home, an accessory structure, two abandon wells and an in-ground swimming pool. All existing structures would be demolished. The property is covered by native trees with many Coast Live Oaks. An Arborist Report was prepared, and 683 trees were inventoried. Over five hundred of the trees are classified as protected trees under the City of Saratoga Tree Regulations. Tree species include, but are not limited to Coast Live Oak, Black Walnut and Black Acacia. The Project subdivision improvements include the new streets, utility and storm drain improvements and would require the removal of 56 protected trees.

A separate project by the City of Saratoga, the Town of Los Gatos and the Santa Clara Valley Water District is in the permitting phase, to replace a bridge that crosses Quito Road adjacent to and within the Project site. The existing bridge would be replaced with a wider span structure that would allow a 100-year design flow. Easements on the project site have been obtained and recorded including, temporary construction easements and mitigation planting areas. The new bridge would clear-span the creek and include bridge abutments supported on piles placed in cast-in-drilled-holes. The bridge project includes minor grading in the San Tomas Aquino Creek channel at the bridge location to reduce the angle of the channel at the crossing and to minimize the potential for erosion. The bridge project includes bank stabilization measures consisting of a combination of rock slope protection and wing/retaining walls. Riparian restoration and mitigation planting would occur on the Project site.

At this time the City has not received final permits/approvals from the California Department of Fish and Wildlife or the Santa Clara Valley Water District. The Public Works Department anticipates their project to be exempt from the California Environmental Quality Act because it is a replacement and reconstruction of existing structures where the new structures would be located on the same sites and would have substantially the same purpose and capacity as the replaced structures. Construction of the replacement bridge is expected to begin in the Spring of 2023.

1. Other public agencies whose review is required

San Jose Water Company; West Valley Sanitation District; Santa Clara Valley Water District and the Santa Clara County Fire Department.

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality etc.?

The Tamien Nation has requested formal notice of and information on all projects requiring environmental review within the City of Saratoga. The Tamien Nation along with eight other tribes were formally notified of this project.

**Figure 1: Project Location**

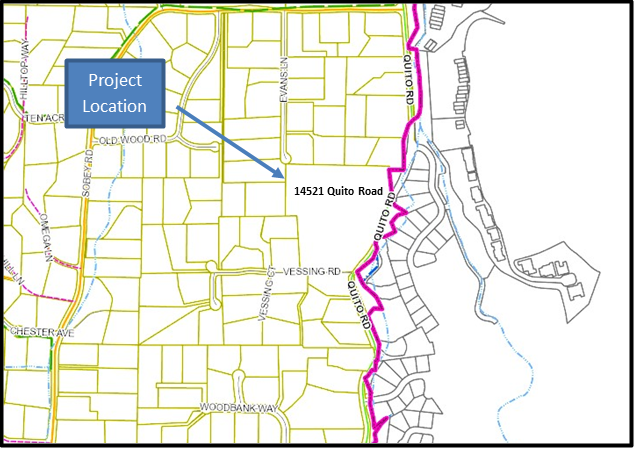
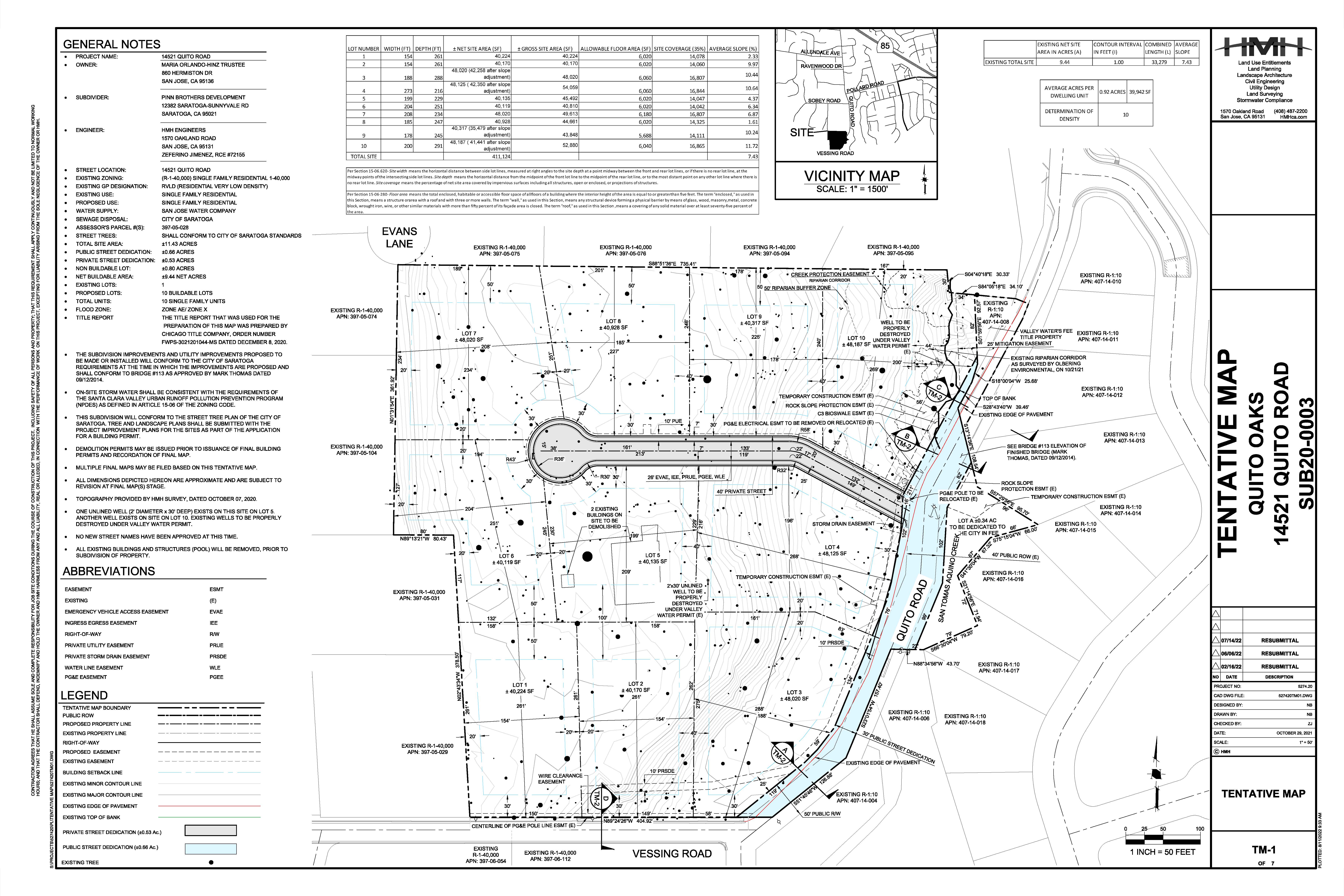


Figure 2: Tentative Map



**B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project. Please see the checklist beginning on page 6 for additional information.

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

**C. DETERMINATION:**

On the basis of this initial evaluation:

|  |  |
| --- | --- |
|  | I find that the proposed project COULD NOT have a significant effect on the environment, and a Negative Declaration will be prepared. |
|  | I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared. |
|  | I find that the proposed project MAY have a significant effect on the environment, and an  ENVIRONMENTAL IMPACT REPORT is required. |
|  | I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed. |
|  | I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required |

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| --- | --- | --- | --- | --- | --- |
| **Text, letter  Description automatically generatedSignature:** | | **Date: August 25, 2022** | | | |
|  | |  | | | |
| **Printed Name: Christopher Riordan, Senior Planner** | |  | | | |
| **1. AESTHETICS**:  Would the project: | Potentially Significant Impact | | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Have a substantial adverse effect on a scenic vista |  | |  |  |  |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway |  | |  |  |  |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? |  | |  |  |  |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? |  | |  |  |  |

**DISCUSSION:**

a-d) The proposed Tentative Map would subdivide an existing 11.43-acre parcel into ten lots. A new cul-de-sac would take access from Quito Road and would serve lots 4 through 10. Lots 1 through 3 would be served off Vessing Road. There are no scenic views or view sheds explicitly identified for this project area in the City of Saratoga’s General Plan or other planning documents. The project area does not include any portions of a State Scenic Highway identified by the California Department of Transportation. There are no identified scenic resources or historic buildings within a state scenic highway located within the project area.

An Arborist Report was prepared by HMH dated February 11, 2022 (Exhibit B). The property is covered by native trees with many Coast Live Oaks. The Arborist Report inventoried 682 trees and over five hundred of the trees are classified as protected trees under the City of Saratoga Tree Regulations. Tree species include, but are not limited to Coast Live Oak, Black Walnut and Black Acacia. The Project subdivision improvements include the new cul-de-sac, utility and storm drain improvements, pathway along Quito Road and would require the removal of 56 protected trees.

The project includes the removal of all existing structures and though this Project is only for the subdivision of ten lots, it is anticipated that a single-family home and an accessory dwelling unit would be developed on each of the new lots. Future development would be subject to zoning regulations, which include limits on building height, setbacks, grading and tree removal. In addition, the City’s Design Review process, which includes substantial conformance with the Single-Family Residential Design Review Handbook, would be used to ensure visual compatibility within the project area. The construction of the new homes would be similar to existing homes in the neighborhood and therefore would not adversely affect day or nighttime views in the area.

Several protected and smaller trees would be removed along Quito Road to install the storm drainage system required for the project. However, the building setbacks along Quito Road would protect existing trees and shrubbery and would help to screen the new homes from the street. A .34-acre portion of the site is located on the east side of Quito Road and would be dedicated to the City of Saratoga. The Arborist Report prepared by HMH, contains recommendations for tree protection during construction. The City Arborist has reviewed the plans and recommendations for tree replacement are included in the approval (Exhibit C).

Therefore, the project would have a less than significant impact on the existing visual character of the site and its surroundings.

**MITIGATION: None**

Sources: 1, 2, 3 & 6

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

**DISCUSSION:**

a-e) The project site has been developed with a residential home and accessory structures for many years and is in an area fully developed with urbanized uses. At one time in the past the property had been planted with fruit trees such as prunes, apricots, peaches and walnuts. The fruit trees were removed around 2007 and the walnut trees remain. There are remnants of the former orchard; however, there is no pattern of planted trees and currently the property is dominated by Coast Live Oak and pine trees. There is no agricultural land or productive forestland on or adjacent to the site.

The project site and all surroundings are designated “Urban and Built-Up Land” by the Department of Conservation (DOC), a department of California Resources Agency. The DOC’s Farmland Mapping and Monitoring Program (FMMP) publishes Farmland Maps, and the most recent map was prepared in 2018. The map shows there is no farmland on or near the project site; therefore, there is no potential to convert Farmland of Statewide Importance to a non-agricultural use.

The Land Use Element of the General Plan notes that there are no timber production areas within the City. There is no potential for the project to adversely affect timber resources. Therefore, the project would have no impact on agriculture and forest resources.

**MITIGATION:** None

Sources: 2, 3 & 8

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

**DISCUSSION:**

a-e) The City of Saratoga, including the project site, is within the boundaries of the San Francisco Bay Area Air Basin (SFBAAB). The Bay Area Air Quality Management district (BAAQMD) is the regional agency responsible for the regulation and enforcement of federal, state, and local air pollution control regulations in the SFBAAB, where the project site is located. Policies that support improving air quality are also contained in multiple locations in the City’s General Plan.

Subdivision improvements include grading for installation of the private street, overall drainage improvements, utility installation, bioretention area excavations and utility trenching. The project includes earthwork estimates of 3,500 cubic yards of cut that will be exported off the project site. The Project subdivision improvement plans are subject to best management practices to minimize Project related effects on air quality to a less than significant level. Construction activities and debris removal trucks are expected during the 7-month construction time frame. None of these short-term construction activities would potentially effect air quality or create objectionable odors.

The future development of each single-family home would be subject to the City’s design review process and would include individual conditions of approval for each lot requiring best management practices during construction to minimize project related effects on air quality to a less than significant level.

Therefore, the projects construction activities for the subdivision improvements with the mitigation implemented below, would have a less than significant impact on the existing air quality of the site and its surroundings.

**MITIGATION:**

**MM – Air Quality – 1)** All exposed surfaces (e.g. parking areas, staging areas, soil piles, stockpiles, graded areas, and unpaved access roads) shall be watered twice daily, or as often as needed, treated with non-toxic soil stabilizers, or covered to control dust emissions. Watering should be sufficient to prevent airborne dust from leaving the site.

**MM – Air Quality – 2)** All haul trucks transporting soil, sand, or other loose material off site shall be covered.

**MM – Air Quality – 3)** All visible mud or dirt track-out onto adjacent public roads and paved access roads shall be removed using wet power (with reclaimed water, if possible) vacuum street sweepers at least once per day, or as often as needed. The use of dry power sweeping is prohibited.

**MM – Air Quality – 4)** All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.

**MM – Air Quality – 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.

**MM – Air Quality – 6)** Idling times shall be minimized either by shutting equipment off when not in use or by reducing the maximum idling time to 5 minutes (as required by California airborne toxics control measure Title 13 CCR Section 2485). Clear signage shall be provided for construction workers at all access points.

**MM – Air Quality – 7)** All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

**MM – Air Quality – 8)** A publicly visible sign shall be posted with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. BAAQMD’s phone number also shall be visible to ensure compliance with applicable regulations.

**MM – Air Quality – 9)** The Applicant’s project manager or his/her designee shall verify compliance that these measures are included in the Project’s grading plan and have been implemented during normal construction site inspections.

Source: 2, 9 & 10

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

**DISCUSSION:**

a-e) Olbering Environmental, Inc. conducted a field reconnaissance survey and prepared a Biological Resources Analysis Report dated January 2022 (Exhibit D). The report was prepared for the purpose of identifying sensitive plant and wildlife species, sensitive habitats, and biological constraints potentially occurring on the property. The search and review of the California Natural Diversity Database (CNDDB) database reports revealed the occurrence of special-status plant and wildlife species that occur in the habitats found within the project site. The property is located along San Tomas Aquinas Creek with a portion of the creek abutting the northeast corner of the parcel along Quito Road. This area is a Special Flood Hazard Area, Regulatory Floodway, Zone AE and would qualify as a Protected Creek.

A field survey was performed to determine the potential presence or absence of special-status species habitat listed in the CNDDB database report and to identify any wetland areas that could be potentially regulated by the U.S Army Corps of Engineers (Corps), Regional Water Quality Control Board (RWQCB), and/or California Department of Fish and Wildlife (CDFW).

The report concludes that the property includes wetlands/waters that may be considered jurisdictional by the Army Corps of Engineers, RWQCB, or the CDFW. The northeast corner of the property contains San Tomas Aquinas Creek. If any project related activities are to occur within these features, an Army Corps of Engineers jurisdictional delineation would be required.

Sensitive habitats include riparian corridors, wetlands, habitats for legally protected species and California Department of Fish and Wildlife Species of Special Concern, areas of high biological diversity, areas providing important wildlife habitat, and unusual or regionally restricted habitat types. Habitat types considered sensitive include those listed on the CNDDB working list of “high priority” habitats

The Report concludes that no special-status plant species were determined to have potential to occur on the project site. However special-status wildlife, mammals, amphibian, and reptile species were found to have the potential to occur on the project site.

The Olbering Report includes recommendations for Creek Protection to protect the creek, its banks, and riparian habitat. The protection zone would be shown on the final subdivision map as a Creek Protection Easement that would preclude the construction of new permanent structures (buildings) within the riparian drip line as shown in Figure 10 – Habitat Map within the report. This would ensure that the trees of the riparian corridor are protected from damage to their roots and crowns and provides a significant buffer from the creek and its banks.

A 50-foot riparian buffer zone as shown in Figure 10 – Habitat Map within the report, would be established and shown on the final subdivision map. The 50-foot riparian buffer zone would include measures to protect wildlife and provide for construction monitoring by a qualified biologist during construction.

The Arborist Report inventoried 682 trees. Tree species include, but are not limited to Coast Live Oak, Black Walnut and Black Acacia. There are 515 native and 63 non-native trees that would be considered “protected trees” by the City of Saratoga Tree Regulations. The Project subdivision improvements include new streets, utility and storm drain improvements and would require the removal of 56 protected trees. For those trees that are to remain, the arborist report contains recommendations for tree replacement and protection during construction and are included as mitigation measures. The City Arborist has reviewed and approved the tree removals associated with the subdivision improvements.

A total of five bird species were identified to have a high potential to occur on the property in a nesting and/or foraging capacity. One of the five birds was present, observed foraging on the property. Construction related activities should not take place during the nesting season (February through August), unless a preconstruction survey for nesting birds and raptors has been completed.

The Biological Report indicates that there is habitat to support breeding, upland refuge and dispersal for both the California red-legged frog and the foothill yellow-legged frog. Both species are listed on the California data base and have a moderate potential to occur on the property. In addition, the western pond turtle has a moderate potential to occur on the property, therefore prior to construction a preconstruction survey for special status reptiles and amphibians are included mitigation measures.

Bat species with project site habitat suitability include hoary bat and yuma myotis. The report recommends that prior to tree removal or structure demolition, preconstruction survey for these species is conducted by a qualified bat biologist during seasonal periods of bat activity to determine suitability of the on-site habitat.

The San Francisco Dusky-Footed Woodrat is listed as occurring within a 5-mile radius of the Property. The creek banks and riparian woodland offer highly suitable habitat for nesting and foraging. The San Francisco dusky-footed woodrat has a high potential to occur on the Property.

f) The project site is not part of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or any other approved local, regional, or state habitat conservation plan.

Therefore, with the implementation of the below mitigation measures, the project would have a less than significant impact on the existing Biological Resources of the site and its surroundings.

**MITIGATION**:

**MM – Biologic Resources – 1)** **Corps and State Regulated Wetlands/Waters** – Jurisdictional wetlands and waters potentially regulated under the authority of the Corps, RWQCB and CDFW are present on the property. Fill of these regulated features shall require authorization under Sections 404 and 401 of the Clean Water Act (CWA) and authorization under 1600 of the Fish and Wildlife Code. A Corps wetland delineation should be prepared to document the actual extent of jurisdictional features if any construction activity could result in impacts to wetland/waters. If the wetland/waters are deemed jurisdictional and construction activities are proposed that could impact these features, permits shall be obtained prior to construction. Setbacks from the wetlands/water features shall be required to protect habitat quality and to protect water quality.

**MM – Biologic Resources – 2)** **Creek Protection Easement** – A Creek Protection Easement that protects the creek, its banks, and riparian habitat shall be established that precludes the construction of new permanent structures of any kind within the riparian drip line as seen on Figure 10 – Habitat Map prepared by Olbering Environmental, Inc. This would ensure that the trees of the riparian corridor are protected from damage to their roots and crowns and would provide a significant buffer from the creek and its banks.

**MM - Biologic Resources – 3)** **Riparian Buffer Zone** – A 50-foot riparian buffer zone measured from the Riparian Dripline as shown on Figure 10 – Habitat Map prepared by Olbering Environmental, Inc., shall be established and shown on the final subdivision map, where construction of new structures may take place within the following additional mitigation and minimization measures.

1. Installation of a wildlife exclusion fence. The fence shall be a minimum of 3-feet in height and shall be placed at the edge of the riparian drip line to prevent any potential wildlife from entering the construction area from the creek and riparian corridor.
2. Construction Monitoring. A qualified biological construction monitor shall be present daily while initial grubbing and grading takes place. Once the construction area has been cleared of all vegetation and select trees have been removed, biological construction monitoring can be reduced to once per week site checks for the remainder of the grading period.
3. Installation of BMPs along the Creek Protection Easement shall be included.

**MM – Biologic Resources – 4) Creek Protection Easement planting –**Within the 50-foot riparian buffer zone any new landscaping shall be limited to native riparian plant materials.

**MM - Biologic Resources – 5)** **Tree Preservation and Protection (non-riparian)** – Tree protection shall be implemented during construction activities as follows:

1. **Site Preparation**: All existing trees shall be fenced off 10’ beyond the outside drip line (foliar spread) of the tree. Alternatively, where this is not feasible, fence to the drip line of the tree. Where fencing is not possible, the trunk shall be protected straw waddle and orange snow fencing. The fence shall be a minimum of six feet high, made of pig wire with steel stakes or any material superior in quality, such as cyclone fencing. Tree protection zone sign shall be affixed to fencing at appropriate intervals as determined by the arborist on site. If the fence is within the dripline of the trees, the foliar fringe shall be raised to offset the chance of limb breakage from construction equipment encroaching within the dripline. All contractors, subcontractors and other personnel shall be warned that encroachment withing the fenced area is forbidden without the consent of the certified arborist on the project. This includes, but is not limited to, storage of lumber and other materials, disposal of paints, solvents or other noxious materials, parked cars, grading equipment or other heavy equipment. Penalties, based on the cost of remedial repairs and the evaluation guide published by the international society of arboriculture, shall be assessed for damages to the trees. See tree preservation detail for additional information, including tree protection zone sign.
2. **Grading/excavating**: All grading plans that specify grading within the dripline of any tree, or within the distance from the trunk as outlined in the site preparation section above when said distance is outside the dripline, shall first be reviewed by a certified arborist. Provisions for aeration, drainage, pruning tunneling beneath roots, root pruning or other necessary actions to protect the trees shall be outlined by an arborist. If trenching is necessary within the area as described above, said trenching shall be undertaken by hand labor and dug directly beneath the trunk of the tree. All roots 2 inches or larger shall be tunneled under and other roots shall be cut smoothly to the trunk side of the trench. The trunk side should be draped immediately with two layers of untreated burlap to a depth of 3 feet from the surface. The burlap shall be soaked nightly and left in place until the trench is back filled to the original level. An arborist shall examine the trench prior to back filling to ascertain the number and size of root cuts and shall suggest the necessary remedial repairs.
3. **Remedial repairs**: An arborist shall have the responsibility of observing all ongoing activities that may affect the trees and prescribing necessary remedial work to ensure the health and stability of the trees. This includes, but is not limited to, all arborist activities brought out in the previous sections. In addition, pruning, as outlined in the “pruning standards” of the western chapter of the International Society of Arboriculture, shall be prescribed as necessary. Fertilizing, aeration, irrigation, pest control and other activities shall be prescribed according to the tree needs, local site requirements, and state agricultural pest control laws. All specifications shall be in writing. For pest control operations, consult the local county agricultural commissioner’s office for individuals licensed as pest control advisors or pest control operators.
4. **Final inspection**: Upon completion of the project, the arborist shall review all work undertaken that may impact the existing trees. Special attention shall be given to cuts and fills, compacting, drainage, pruning and future remedial work. An arborist should submit a final report in writing outlining the ongoing remedial care following the final inspection.

**MM - Biologic Resources – 6) Riparian Tree Removal** – If trees within the riparian habitat must be removed for any reason, a California Department of Fish and Wildlife Streambed Alteration Agreement shall be required. For riparian trees, a mitigation ratio of 1 replacement tree for every inch of DBH of riparian tree is required for all trees larger than 6” DBH. (Example: a 12” DBH tree removed shall be mitigated by planting a minimum of 12 individual replacement trees). Each mitigation tree shall be a minimum of 5-gallon size.

**MM - Biologic Resources – 7) Pre-Construction Avian Survey** – If project construction-related activities take place during the nesting season (February through August), preconstruction surveys for nesting passerine birds and raptors (birds of prey) within the project site and the large trees within the oak woodland and riparian areas, shall be conducted by a competent biologist 14 days prior to the commencement of the tree removal or site grading activities. If any bird listed under the Migratory Bird Treaty Act is found to be nesting within the project site or within the area of influence, an adequate protective buffer zone shall be established by a qualified biologist to protect the nesting site. This buffer shall be a minimum of 75 feet from the project activities for passerine birds, and a minimum of 200 feet for raptors. The distance shall be determined by a competent biologist based on the site conditions (topography, if the nest is in line of sight of the construction and the sensitivity of the birds nesting). The nest site(s) shall be monitored by a competent biologist periodically to see if the birds are stressed by the construction activities and if the protective buffer needs to be increased. Once the young have fledged and are flying well enough to avoid project construction zones (typically by August), the project can proceed without further regard to the nest site(s).

**MM - Biologic Resources – 8) Pre-construction Bat Survey** – To avoid “take” of special-status bats, the following mitigation measures shall be implemented prior to the removal of any existing trees or structures on the project site:

1. A bat habitat assessment shall be conducted by a qualified bat biologist during seasonal periods of bat activity (mid-February through mid-October) to determine suitability of each existing structure as bat roost habitat.
2. Structures found to have no suitable openings can be considered clear for project activities as long as they are maintained so that new openings do not occur.
3. Structures found to provide suitable roosting habitat, but without evidence of use by bats, may be sealed until project activities occur, as recommended by the bat biologist. Structures with openings and exhibiting evidence of use by bats shall be scheduled for humane bat exclusion and eviction, conducted during appropriate seasons, and under supervision of a qualified bat biologist.
4. Bat exclusion and eviction shall only occur between February 15 and April 15, and from August 15 through October 30, in order to avoid take of non-volant (non-flying or inactive, either young, or seasonally torpid individuals. **OR**

A qualified wildlife biologist experienced in surveying for identifying bat species shall survey the portion of the project site with large trees and abandoned structures. Any special-status bats identified should be removed without harm. Bat houses sufficient to shelter the number of bats removed shall be erected in open space areas that would not be disturbed by project development.

**MM - Biologic Resources – 9) Pre-construction Amphibian (CRLF Protocol-FYLF VES) Surveys** – A qualified Biologist shall survey the project site for CRLF (and other sensitive wildlife species including FYLF) preceding the commencement of construction activities to verify absence/presence of the species. Surveys shall be performed using USFWS protocol.

***Surveys Performed during the breeding season (October 1 – June 30):*** USFWS recommends a total of up to eight surveys to determine the absence of CRLF at or near a project site. Two-day surveys and four-night surveys would be required during the breading season. If CRLF are identified at any time during the course of surveys, no additional surveys are needed.

***Surveys Performed during the non-breeding season (July 1 – September 30):*** One day and one night survey would be required during the non-breeding season. At least one survey shall be completed between January 1 and August 15. If CRLF are identified at any time during the course of surveys, no additional surveys are needed.

**MM – Biologic Resources – 10) Pre-Construction Dusky-footed Woodrat Survey** – Prior to commencing any Project activities that may result in the destruction of dusky-footed woodrat nests; surveys shall be conducted by a qualified biologist to determine the occurrence of the nests.

**MM – Biologic Resources – 11) Erosion Control** – During construction, runoff from the Property could adversely affect aquatic life within the adjacent water features. Surface water runoff could remove particles of fill or excavated soil from the site, or could erode soil down-gradient, if the flow were not controlled. Deposition of eroded material in adjacent water features could increase turbidity, thereby endangering aquatic life, and reducing wildlife habitat. Implementation of appropriate mitigation measures would ensure that impacts to aquatic organisms would be avoided or minimized. Mitigation measures shall include best management practices (BMP’s) such as hay bales, silt fencing, placement of straw mulch and hydro seeding of exposed soils after construction as identified in the Storm Water Pollution Prevention Plan (SWPPP).

**MM – Biologic Resources – 12) Tree Protection -** A tree protection plan shall be developed by the project arborist and shall be reviewed and approved by the City Arborist prior to the arrival of construction equipment or materials on site. Adhering to this plan will become a condition of approval for the project. The project arborist shall visit the site every two weeks during grading trenching or digging activities and every six weeks thereafter. The project arborist shall supervise any permitted pruning or root pruning of trees on site. Roots of protected trees measuring two inches in diameter or more shall not be cut without prior approval of the Project Arborist. Should any protected tree be damaged beyond repair, new trees shall be planted as required by the City Arborist.

**MM – Biologic Resources – 13)** Santa Clara Valley Water Resources Protection Collaborative’s Guidelines and Standards for Land Use Near Streams, adopted as guidelines by the City shall be implemented. A 2:1 slope stability protection area as measured from the toe of the bank of the creek shall be shown on parcels 3, 4 and 10. No structures including pools shall be located within the slope stability protection area.

**MM – Biologic Resources – 14)** Riparian Vegetation removal and disturbance shall be avoided during grading activities to prevent the degradation of existing riparian habitat and/or contribute to soil loss critical to the continued health and regeneration of riparian trees.

Sources: 1, 2 & 3

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **5. CULTURAL RESOURCES:**  Would the project: | | Potentially Significant Impact | Less Than Significant with Mitigation | | | Less Than Significant Impact | | No Impact |
| a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5? |  | | |  |  | |  | | |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? |  | | |  |  | |  | | |
| c) Disturb any human remains, including that interred outside of dedicated cemeteries? |  | | |  |  | |  | | |
|  |  | | |  |  | |  | | |

**DISCUSSION:**

a-b) The 11.43-acre Project site includes a 1942 house, a 1942 ancillary building, a 1950 inground swimming pool, and associated landscaping. A Historic Resource Evaluation (HRE) of the property was prepared by Evans & DeShazo dated September 6, 2021 (Exhibit E). The HRE was based on specific guidelines and evaluation criteria of the CRHR (14 CCR 15064.5 and PRC 21084.1). The purpose of the report was to evaluate the history of the property and the history of the surrounding area and to evaluate the historical significance of the existing structures that are at least 45 years in age or older. DPR forms were also completed for the property and are attached to the report.

The report revealed that in 2011 the main home was evaluated as part of a Historic Resource Evaluation Report of the Quito Road Bridges Replacement Project and was documented on DPR 523 forms (P-43-002807). However, because the property was surveyed from Quito Road and was largely not visible from the public right-of-way, the documentation was incomplete, and the evaluation did not meet the CEQA guidelines for evaluating historical resources.

The current HRE prepared by Evans & DeShazo does meet the CEQA guidelines for evaluating historical resources. The HRE determined that the property containing the 1942 house, 1942 ancillary building and the 1950 inground swimming pool, and associated landscape does not meet the eligibility requirements for listing on the CRHR and is not currently listed on any national, state, or local register of historic resources; therefore, the property does not meet the definition of a historic resource under CEQA. As such, any future proposed project will not impact built environment historical resources within the property.

In addition, an Archaeological Study was prepared by Evans & DeShazo dated March 31, 2022 (Exhibit F). The study was needed to identify archaeological resources that could be impacted by the proposed Project and provide recommendations if warranted. The Archaeological Study, which included an extended Phase 1 survey did not result in the identification of any precontact period archaeological resources within the Project Area; however, nineteen isolated historic-period artifacts, a concrete perimeter foundation of brick and artifact scatter were identified that appear to be associated with historic occupation of the Project Area from approximately 1876 to 1965. While none of the historic period artifacts or features identified within the Project area appeared to be eligible for the California Register of Historical Resources (CRHR), the presence of these historic artifacts and features, as well as the results of the historic research, indicates a high potential/sensitivity for subsurface historic-period archaeological deposits to be present within the Project Area that could be eligible for the CRHR. Therefore, Project-specific mitigations are provided below to address the high potential/sensitivity for historic-period archaeological resources to be encountered during Project-related, ground-disturbing activities. It is anticipated that implementation of these mitigation measures will reduce or eliminate adverse impacts to archaeological resources if discovered during construction.

c) During grading operations if human remains are discovered within the Project site, all work shall stop, and the mitigation measures shall be followed.

**MITIGATION**:

**MM – Cultural Resource – 1)**If human remains are encountered within the Project Area during Project-related activities, all work shall stop within 100-feet of the discovery area and the area shall be secured to prevent further disturbance. The Santa Clara County Coroner shall be notified immediately. The suspected human remains, and the area around them, shall be undisturbed and the proper authorities are called to the scene as soon as possible. The Coroner shall determine if the remains are pre-contact period Native American remains or of modern origin and if there are any further investigation by the coroner to be warranted. If the Coroner suspects the remains are those of a pre-contact period Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24-hours so that a Most Likely Descendant (MLD) can be designated to provide further recommendations regarding treatment of the remains. The MDL has 48-hours to make recommendations to the landowner for treatment or disposition of the human remains. If the MLD does not make recommendations within 48-hours, the landowner shall reinter the remains in an area of the property secure from further disturbance. If the landowner does not accept the descendant’s recommendations, the owner or the descendant may request mediation by NAHC. According to the California Health and Safety Code, six or more human burials at one location constitutes a cemetery (Section 8100), and willful disturbance of human remains is a felony (Section 7052). An archaeologist shall also be retained to evaluate the historical significance of the discovery, the potential for additional remains, and to provide further recommendations for treatment of the site in coordination with the MLD.

**MM – Cultural Resource – 2)** **Prepare an Archaeological Monitoring Plan Specific to the Proposed Development and Monitor for the Presence of Buried Historic-Period Archaeological Resources.** A Secretary of Interior qualified archaeologist shall prepare an Archaeological Monitoring Plan (AMP) and provide the appropriate level of archaeological monitoring for Project-related ground-disturbing activities. The AMP shall provide details regarding the types of archaeological resources that could potentially be found within the Project Area during construction, the locations where they would most likely occur, and procedures to follow should any archaeological material be encountered. The AMP shall provide procedures and guidelines for proper notification to agencies and stakeholders, in-field assessment of the significance of any archaeological deposits identified during monitoring, and the permanent curation of artifacts from CRHR-eligible deposits that may be discovered. The archaeological monitor shall be empowered to halt construction activities at the location of a discovery to review possible archaeological material and to protect the resource while the deposit is being assessed. Monitoring shall continue until, in the archaeologist’s judgement, archaeological resources are not likely to be encountered. A report shall also be prepared to document the findings after construction is completed.

**MM – Cultural Resource – 3) Stop Work if Archaeological Resources Are Discovered During Ground-Disturbing Activities.** If an archaeological deposit is encountered during Project-related, ground disturbing activities, all work within 50 feet of the discovery shall be redirected until the archaeologist assesses the find and makes recommendations for the treatment of the discovery. If avoidance of the archaeological deposit is not feasible, the archaeological deposit shall be evaluated for its eligibility for listing in the CRHR. If the deposit is found to be eligible, adverse impacts shall be mitigated. Mitigation may include excavation of the archaeological deposit in accordance with the Secretary of Interior’s Standards and Guidelines for Archaeological Documentation that may include data recovery using standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; and accessioning of archaeological materials and a technical data recovery report at a curation facility. Upon completion of the assessment, the archaeologist shall prepare a report to document the methods and results of the assessment. The report shall be submitted to the Project applicant, City of Saratoga, and the NWIC upon completion of the resource assessment.

Sources: 1, 2, 3 & 4

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| --- | --- | --- | --- | --- |
| **6. ENERGY:**  Would the project: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation? |  |  |  |  |
| b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency? |  |  |  |  |
|  |  |  |  |  |

**DISCUSSION:**

a-b) Implementation of the Project would not be considered to result in wasteful or inefficient consumption of energy. The project includes the construction of subdivision improvements such as utility extensions, bio retention basins and a new private street. No additional development is proposed at this time; however, it is expected that ten new single-family residences and accessory dwelling units will be constructed. Energy consumption would be expected to be commensurate with similar uses and wasteful, inefficient, or unnecessary consumption of energy resources during construction is not to be expected. Therefore, the Project would have a less than significant impact on Energy.

**MITIGATION:** None

Sources: 1, 2 & 3

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| --- | --- | --- | --- | --- | --- | --- | --- |
| **7. GEOLOGY AND SOILS:**  Would the project: | | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | | No Impact | |
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: |  | |  |  |  | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42? |  | |  |  |  | |
| ii) Strong seismic ground shaking? |  | |  |  |  | |
| iii) Seismic-related ground failure, including liquefaction? |  | |  |  |  | |
| iv) Landslides? |  | |  |  |  | |
| b) Result in substantial soil erosion or the loss of topsoil? |  | |  |  |  | |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? |  | |  |  |  | |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? |  | |  |  |  | |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water? |  | |  |  |  | |
| f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature? |  | |  |  |  | |

**DISCUSSION:**

a-f) The project site is located west of Quito Road. San Tomas Aquinas Creek flows from south to north on the eastern side of Quito Road and crosses under the roadway and flows through Lot 10. Lower portions of the property comprising proposed Lots 3,4 and 10 are within regulatory floodways mapped by FEMA.

The Project Geotechnical Consultant advanced 4 subsurface borings to a depth of 45 feet below the ground surface. The Consultant reported encountering surficial stiff sandy silt, underlain by sands and gravels with interbeds of silt. Groundwater was encountered at a depth of 9 feet below the ground surface. Therefore, it was concluded that the magnitude of liquefaction induced settlements are on the order of less than an inch and is tolerable for the planned structures.

The City Geotechnical Consultant reviewed the project Preliminary Geotechnical Feasibility Assessment Report prepared by Quantum Geotechnical, Inc dated November 16, 2020 (Exhibit G) along with the Tentative Map prepared by HMH Engineers. The Project Preliminary Geotechnical Feasibility report does not include review of any subdivision level improvements or recommendations, or geotechnical design criteria for individual lots. It is anticipated that each lot will require site-specific geotechnical reports and design recommendations.

The City Geotechnical Consultant reviewed and approved the project Geotechnical Feasibility. The approval states that the lower portions of the Project comprising proposed Lots 3, 4 and 10 may be within regulatory floodways mapped by FEMA. These lower portion s of the property are also mapped within a State delineated liquefaction hazard zone. Based on the City’s Ground Movement Potential map, the subject property is mapped within a ‘Sun’ zone with unconsolidated stream deposits. Slopes on the property range from moderately steep to gentle. A trace of the Shannon Fault is mapped approximately 200 feet northwest of the Project.

It is anticipated that site-specific geotechnical investigations for potential residential development of the proposed lots will be completed at the time of development.

**MITIGATION:**

**MM – Geology and Soils – 1)** The applicant’s Consultant shall coordinate with the Project Team to provide water well destruction, grading and demolition recommendations and observe site demolition for conformance with their recommendations. Note that, well demolition requires a permit and registration from Valley Water’s Well and Water Measurement Unit.

**MM – Geology and Soils – 2)** The applicant’s consultant shall delineate the extent of the in-ground swimming pool backfill on final maps prior to final map recordation to assist with anticipated site development.

Sources: 2, 3, 5 & 12

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **8. GREENHOUSE GAS EMISSIONS:**  An assessment of the greenhouse gas emissions and climate change is included in the body of environmental document. While Caltrans has included this good faith effort in order to provide the public and decision-makers as much information as possible about the project, it is Caltrans determination that in the absence of further regulatory or scientific information related to GHG emissions and CEQA significance, it is too speculative to make a significance determination regarding the project’s direct and indirect impact with respect to climate change. Caltrans does remain firmly committed to implementing measures to help reduce the potential effects of the project. These measures are outlined in the body of the environmental document.  Would the project: | Potentially Significant Impact | | Less Than Significant with Mitigation | | Less Than Significant Impact | | No Impact |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | |  | |  | |  |  |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | |  | |  | |  |  |

**DISCUSSION:**

a-b) The Project site would create greenhouse gas emissions mainly from the generation of electricity for the residential development and vehicle trips. Solid waste would make up a small amount of the total generation of greenhouse gas emissions.

The BAAQMD identifies screening levels for evaluation of operational GHG emissions.  The City of Saratoga does not have an adopted greenhouse gas emissions reduction plan.

Regarding impacts from GHGs, both BAAQMD and the California Air Pollution Control Officers Association consider GHG impacts to be exclusively cumulative impacts (BAAQMD 2017b; CAPCOA 2008); therefore, assessment of significance is based on a determination of whether the GHG emissions from a project represent a cumulatively considerable contribution to the global atmosphere. This analysis uses both a quantitative and a qualitative approach. The quantitative approach is used to address the first significance criterion: “Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?” This analysis considers that, because the quantifiable thresholds developed by BAAQMD were formulated based on AB 32 and California Climate Change Scoping Plan reduction targets, for which its set of strategies were developed to reduce GHG emissions statewide, a project cannot exceed a numeric BAAQMD threshold without also conflicting with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. Therefore, if a project exceeds a numeric threshold and results in a significant cumulative impact, it will also result in a significant cumulative impact with respect to plan, policy, or regulation consistency, even though the project may incorporate measures and have features that would reduce its contribution to cumulative GHG emissions.

Separate thresholds of significance have been established by the BAAQMD for operational emissions from stationary sources (such as generators, furnaces, and boilers) and nonstationary sources (such as on-road vehicles) (BAAQMD 2017b). The threshold for stationary sources is 10,000 MT CO2e per year (i.e., emissions above this level may be considered significant).

Projects that could exceed the threshold of 10.000 metric tons of CO2 per year might involve use of equipment such as production flares, steam generators, thermal oxidizers and furnaces with an individual or combined project power rating of 20 MMBtu/hr or greater.  None of these examples will be in use on this Project site.

The quantitative threshold of 10,000 MT CO2e annually adopted by BAAQMD is applied to this analysis. If the project-related GHG emissions would exceed this threshold then, consistent with BAAQMD CEQAAir Quality Guidelines, it would be considered to have a cumulatively considerable contribution of GHG emissions and a cumulatively significant impact on climate change.  Because the Project’s estimated operational greenhouse gas emissions falls below this threshold, there is a less than significant impact to greenhouse gas emissions.

**MITIGATION:** none

Sources: 1, 2, 9 & 10

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| --- | --- | --- | --- | --- |
| **9. HAZARDS AND HAZARDOUS MATERIALS:**  Would the project: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? |  |  |  |  |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? |  |  |  |  |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? |  |  |  |  |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? |  |  |  |  |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? |  |  |  |  |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? |  |  |  |  |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? |  |  |  |  |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? |  |  |  |  |

**DISCUSSION:**

a-c) The proposed Project is a residential development located in a residential zoning district that does not involve the routine transport, use, or disposal of hazardous waste. Nominal amounts of hazardous material in the form of fuels and other construction materials are routinely used during construction processes.

The Project includes the removal of three structures including a single-family home, accessory structure, and an in-ground swimming pool. The construction of the subdivision improvements would not be a source of hazardous emissions.

d) Government Code Section 65962.5 requires that the Department of Toxic Substances Control compile and regularly update a list of hazardous waste facilities and sites. A search of the Envirostor website (Department of Toxic Substances Control 2018) revealed that the Project site is not on the list.

e-f) The Project site is not within an airport land use plan, is not within two miles of a public airport, and is not near a private landing strip. The nearest airports are San Jose International Airport ten miles to the northeast, and Reid-Hillview Airport 16 miles to the east, northeast.

g) The City participates in the Santa Clara County Operational Emergency Plan. The plan is an all-hazards document describing the County's Emergency Operations organization, compliance with relevant legal statutes, other guidelines, and critical components of the Emergency Response System. Development of the Project would not impair the implementation of this plan.

h) The Project site is not located within the Wildland-Urban Interface Area. Development of the project site is not expected to expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

Therefore, the Project would have no impact on Hazards and Hazardous Materials.

**MITIGATION:** none

Sources: 1, 2, 11, 12 & 13

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| --- | --- | --- | --- | --- |
| **10. HYDROLOGY AND WATER QUALITY:**  Would the project: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Violate any water quality standards or waste discharge requirements? |  |  |  |  |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? |  |  |  |  |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? |  |  |  |  |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? |  |  |  |  |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? |  |  |  |  |
| f) Otherwise substantially degrade water quality? |  |  |  |  |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? |  |  |  |  |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? |  |  |  |  |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? |  |  |  |  |
| j) Inundation by seiche, tsunami, or mudflow |  |  |  |  |

**DISCUSSION:**

a-f) The Project would subdivide an existing 11.43-acre parcel into ten-lots ranging in size from .92 acres to 1.2 acres. The existing home, accessory structure and in-ground swimming pool would be removed from the site. There are two abandoned wells on the site. The Project would create a new private cul-de-sac with a connection to Quito Road which would provide access to seven parcels with the remaining three parcels taking access from Vessing Road. If the subdivision is approved, it would allow for the construction of ten, new single-family homes and accessory dwelling units.

The proposed Project would retain and/or detain any increase in design flow from the site. The Project would be reviewed in accordance with the most recent and up to date NPDES Standards, which are jointly administered by CDD and DPW.  Disposition and treatment of stormwater would comply with the applicable requirements of the National Pollution Discharge Elimination System ("NPDES") Permit issued to the City of Saratoga and the implementation standards established by the Santa Clara Valley Urban Runoff Pollution Prevention Program (collectively the “NPDES Permit Standards”). The proposed Project would not violate any water quality standards or waste discharge requirements.

The proposed Project would utilize public water provided by the San Jose Water Company and would not use groundwater for any phase of the project. Regarding surface water that recharges the groundwater, the project site is not located in a groundwater recharge area. Consequently, the Project would have no impact on groundwater supplies or recharge other than its indirect impact on the use of groundwater by the San Jose Water Company. The Water Company receives water from Santa Clara Groundwater Basin supplied by the Santa Clara Valley Water District. According to the water district's 2015 Urban Water Management Plan, there is adequate groundwater recharge within the Basin. The proposed Project would not deplete groundwater resources nor substantially interfere with groundwater recharge and the impact is less than significant.

New development of the Project site is required to comply with the Municipal Regional Stormwater Permit and the Construction General Stormwater Permit. The Municipal Regional Stormwater Permit and the Construction General Stormwater Permit require that any development on the Project site incorporate Low Impact Design techniques, provide erosion control measures during construction, and ensure that runoff does not exceed the rate and duration of that existing runoff. Further, the required Low Impact Design techniques require pre-treatment of runoff before it enters the City's storm water system. Project plans for the subdivision improvements would include a storm water management plan which would be reviewed by City staff to ensure the plan meets the City's requirements for storm water management. These requirements would ensure that the Project will have no impact on downstream flooding, including impacts on downstream creeks. These requirements would ensure that the Project would not create or contribute substantial amounts of runoff water that would exceed the capacity of existing or planned storm water drainage systems.

g-i) Large scale flooding is not a significant hazard in the City. Site drainage is generally characterized by infiltration or sheetflow ultimately intercepted by San Tomas Aquinas Creek. According to the Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) 06085C0238J map revision date February 19, 2014, a portion of the site is located within a Special Flood Hazard Zone, Zone AE. The base flood elevation has been determined to be between 325 feet and 342 feet (NAVD88) in the area and a floodway has been delineated within a portion of the flood zone. Note, a portion of the AE zone is outside of the floodway (APN 397-05-028). The remaining portion of the site is within Zone X, an area of 100-year flooding with average depths of less than a foot or with a drainage area of less than one square mile or 0.2% flooding. New foundations would be set above the base flood elevation in accordance with the Uniform Building Code. Development of lot 10 would be conditioned such that a hydrology report would be required to establish the construction constraints associated with the floodway. With the implementation of the below mitigation, the project impacts on Hydrology and Water Quality would be less than significant.

In addition, the Santa Clara Valley Water Resources Protection Collaborative’s Guidelines and Standards for Land Use Near Streams calls for a 2:1 slope stability protection area as measured from the toe of bank of the creek. Parcels 3, 4 and 10 would be subject to these guidelines.

j) The Project site is located inland and is not at risk of inundation by a tsunami. Seiches are large waves generated in enclosed bodies of water in response to ground shaking. No major water-retaining structures are located immediately up gradient from the Project site. Flooding from a seismically induced seiche is unlikely. The Project site is not located at the base of a hill and the area surrounding is developed with single-family homes on sites heavily vegetated. The Project site would not be subject to inundation by mudflow.

**MITIGATION:**

**MM – Hydrology and Water Quality – 1)** Prior to beginning of construction, the applicant shall file a Notice of Intent (NOI) with Regional Water Quality Control Board, if required, to obtain coverage under the State General Construction Activity NPDES Permit. Satisfactory evidence of the filing of the NOI shall be furnished to the City. The applicant shall comply with all provisions and conditions of the State Permit, including preparation and implementation of a Strom Water Pollution Prevention Plan (SWPPP). Copies of the SWPPP shall be submitted to the City prior to beginning of construction and maintained on site at all times.

**MM – Hydrology and Water Quality – 2)** Disposition and treatment of stormwater shall comply with the applicable requirements of the National Pollution Discharge Elimination System ("NPDES") Permit issued to the City of Saratoga and the implementation standards established by the Santa Clara Valley Urban Runoff Pollution Prevention Program (collectively the "NPDES Permit Standards"). Prior to issuance of Zoning Clearance for a Demolition, Grading or Building Permit for this Project, a Stormwater Management Plan shall be submitted to the Community Development Director for review and approval demonstrating how all storm water will be retained on-site and in compliance with the NPDES Permit Standards. If not all stormwater can be retained on-site due to topographic, soils or other constraints, and if complete retention is not otherwise required by the NPDES Permit Standards, the Project shall be designed to retain on-site the maximum reasonably feasible amount of stormwater and to direct all excess stormwater away from adjoining property and toward stormwater drains, drainageways, streets or road right-of- ways and otherwise comply with the NPDES Permit Standards.

**MM – Hydrology and Water Quality – 3)** In areas of special flood hazard designated as floodways as established in SMC §16-66.050(b) encroachments, including fill, new construction, substantial improvement, and other new development is prohibited unless certifications by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in the base flood elevation during the occurrence of the base flood discharge. All new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of SMC §16-66.090 through §16-66.140.

**MM – Hydrology and Water Quality – 4)** In all areas of special flood hazard zones new construction and substantial improvements shall be constructed in accordance with SMC §16.66.090 Standards for Construction, and §16.66.100 Standards for Utilities.

**MM – Hydrology and Water Quality – 5)** All new structures located on Parcels 3, 4 and 10 shall be located outside the 2:1 Slope Stability Protection Area as measured from the toe of the bank of the creek in accordance with the Santa Clara Valley Water Resources Protection Collaborative’s Guidelines and Standards for Land Use Near Streams.

Sources: 1, 2, 3, 12 & 14

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **11. LAND USE AND PLANNING:**  Would the project: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Physically divide an established community? |  |  |  |  |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? |  |  |  |  |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? |  |  |  |  |

**DISCUSSION:**

a-b) The Project site contains a one-story single-family home and associated improvements. Surrounding land uses include single-family residential. The proposed Project would include the subdivision of the site into ten-lots for single-family homes and would not physically divide an established community.

c) The Project site is not located within the boundaries of an adopted Habitat Conservation Plan or Natural Community Conservation Plan. Therefore, no habitat conservation plan conflicts/impacts would occur.

**MITIGATION:** none

Sources:1, 2 & 3

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **12. MINERAL RESOURCES:**  Would the project: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? |  |  |  |  |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? |  |  |  |  |

**DISCUSSION:**

a-b) Within the City of Saratoga there are no designated important mineral resources that need to be protected. Mineral resources in the city are limited primarily to sandstone and shale. Therefore, the proposed Project would not result in impacts to known mineral resources or result in the loss of availability of a locally important resource recovery site.

**MITIGATION:** none

Sources: 2 & 3

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **13. NOISE:**  Would the project result in: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? |  |  |  |  |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? |  |  |  |  |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? |  |  |  |  |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? |  |  |  |  |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? |  |  |  |  |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? |  |  |  |  |

**DISCUSSION:**

a) The standards of the City of Saratoga General Plan Noise Element utilize the Day-Night Level (DNL) noise descriptor. The Noise Element of the General Plan includes the existing roadway noise and noise contour distances for various roadway segments within the city (Table NE-A1) including the portion of Quito Road which borders the project. Based on the table, the Project can expect a DNL of 66 dB as measured 50 feet from the roadway center line. The Noise Element includes land-use compatibility guidelines (Table NE-2) which lists a DNL of between 60 to 70 dB as being in the range of being conditionally acceptable for single-family residential land uses. Policy 2.2 of the General Plan Noise Element requires residential development be designed and constructed to reduce interior noise levels of DNL 45 dB or less in habitable rooms. Implementation of standard building design and construction techniques per CALgreen standards will ensure that noise impacts are less than significant.

b) Equipment expected to be used during the construction phase of the project, would generate ground-borne vibration levels on a short-term basis. There are no long-term effects that would result from ground-borne vibration.

c) The primary source of ambient noise levels associated with the project would be traffic noise. The General Plan Noise Element includes projected future noise contours. The portion of Quito Road adjacent to the project is expected to have a DNL of 65-70 in 2030 which is still conditionally acceptable for residential land uses.

d) Short-term noise impacts may be created during construction of the subdivision improvements such as grading for the new street and utilities. Temporary noise excesses will occur at the properties adjacent to the site during construction of the Project. The noise levels are expected to be consistent with typical single-family home construction within the city. Compliance with the City’s construction hours will reduce the Project’s impacts on noise to less than significant.

e) The Project site is not located within an airport land-use plan or within two miles of a public airport or public-use airport, and therefore, would not expose people residing in the Project area to excessive noise levels.

f) The Project site is not located within the vicinity of a private airstrip, and therefore, would not expose people residing in the Project area to excessive noise levels.

Therefore, the Project would have a less than significant impact on noise.

**MITIGATION:** none

Sources: 1, 2 & 3

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **14. POPULATION AND HOUSING**:  Would the project: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? |  |  |  |  |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? |  |  |  |  |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? |  |  |  |  |

**DISCUSSION:**

a) The Project would create ten additional parcels for the future construction of single-family homes and accessory dwelling units. The existing home would be demolished, and the subdivision improvements would be constructed. Once complete, the developer could construct new homes on all the new parcels or choose to sell individual parcels. Construction of ten single-family homes and accessory dwelling units would not induce substantial population growth in the area.

b-c) The Project would create ten new single-family homes and accessory dwelling units and will not displace existing housing, nor would the Project displace any people.

Therefore, the Project would have a less than significant impact on population and housing.

**MITIGATION:** none

Sources: 1, 2 & 3

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **15. PUBLIC SERVICES:** | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: |  |  |  |  |
| a. Fire protection? |  |  |  |  |
| b. Police protection? |  |  |  |  |
| c. Schools? |  |  |  |  |
| d. Parks? |  |  |  |  |
| e. Other public facilities? |  |  |  |  |

**DISCUSSION:**

a-b) The Santa Clara County Fire Department provides fire protection to the City of Saratoga. The closest fire station to the project site is the Quito Fire Station located at 18870 Saratoga-Los Gatos Road, which is approximately 2 miles south of the project site. The Santa Clara County Sheriff provides law enforcement services to the city. The Project is an urbanized infill site therefore, the proposed Project would not result in a substantial adverse physical impact associated with the provision of or need for new or physically altered police or fire facility.

c-e) The Project would create ten parcels for future development of single-family homes and accessory dwelling units that would have a negligible increase in the demand for schools, parks, or public facilities.

Therefore, the Project would have a less than significant impact Public Services.

**MITIGATION:** None

Sources: 1, 2 & 3

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **16. RECREATION:** | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact | |
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? |  |  |  |  |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? |  |  |  |  |

**DISCUSSION:**

a-b) The Project would create parcels for ten future single-family home sites. The development of ten single-family homes and accessory dwelling units would have a negligible increase in the demand for existing neighborhood and regional parks or other recreational facilities.

Therefore, the Project would have a less than significant impact on recreation.

**MITIGATION:** none

Sources: 1, 2 & 3

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **17. TRANSPORTATION/TRAFFIC:**  Would the project: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? |  |  |  |  |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? |  |  |  |  |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? |  |  |  |  |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? |  |  |  |  |
| e) Result in inadequate emergency access? |  |  |  |  |
| f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? |  |  |  |  |

#### DISCUSSION:

a-f) The project would construct ten detached single-family homes and accessory dwelling units. The current home would be demolished. Access to seven of the homes would be provided via a new private roadway off Quito Road. The new cul-de-sac road would intersect as a T-intersection with Quito Road, approximately 450 feet north of Vessing Road. Access to the remaining three homes would be provided along Vessing Road. The project includes a pedestrian pathway to be constructed along the frontage of Quito Road within the proposed public right of way, for the length of the property.

Hexagon Transportation Consultants, Inc. prepared a Traffic Impact Analysis dated December 3, 2021 (Exhibit H). The report was conducted to identify the potential traffic impacts related to the proposed development. The Project is estimated to generate 85 net new daily trips, with 7 trips during the AM peak hour and 9 trips during the PM peak hour. The report determined that under all scenarios with and without the project, both study intersections would operate in accordance with local standards during both AM and PM peak hours. The General Plan Circulation and Scenic Highway Element requires a transportation analysis to all new development projects resulting in 25 or more new net peak-hour trips. The report also concludes that site access and on-site circulation is adequate and that the Project would not have an adverse effect on the existing pedestrian, bicycle, or transit facilities in the study area. Due to the minimal trip generation with the project, the Project would result in a less than significant impact to traffic circulation.

**MITIGATION: none**

Sources: 1, 2 & 3

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **18. TRIBAL CULTURAL RESOURCES:** | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21704 as either a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: |  |  |  |  |
| 1) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources code section 5020.1(k), or |  |  |  |  |
| 2) A resource determined by the lead agency, or in it discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision © of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American Tribe. |  |  |  |  |

**DISCUSSION:**

The 11.43-acre Project site includes a 1942 house, a 1942 ancillary building, a 1950 inground swimming pool, and associated landscaping. An Archaeological Study was prepared by Evans & DeShazo dated March 31, 2022 (Exhibit F). Evans & DeShazo completed a record search at the Northwest Information Center (NWIC) of the California Historical Resources Information Systems (CHRIS) to identify cultural resources previously recorded within or near the Project Area and the environments in which they are located; and completed a literature review of documents related to the history of the Project Area and its geoarchaeological setting to assess the potential/sensitivity for surficial or subsurface archaeological resources within the Project Area. As recommended by the NAHC, a letter was sent to nine individuals and organizations on the Native American contact list to request further information about Sacred Sites, Traditional Cultural Resources, or other properties of traditional religious and cultural importance located within or near to the Project Area, and to inquire about Native American issues related to the overall Project.

The closest precontact period archaeological resource is located approximately 0.25 miles north of the Project Area. The site was described as a midden with a large quantity of fire cracked rock, small amounts of chipped stone lithics, including flakes of green and red Franciscan chert, and midden soil. The site was relocated in 2020 and 15 prehistoric artifacts and two areas with well-developed midden soil was observed. Subsequent archaeological testing revealed a low density and low diversity of artifacts, and previous disturbances that reduced the overall integrity of the deposit. Based on the evaluation, the site was determined ineligible for the CRHR, and as a unique archaeological source.

Therefore, Project-specific mitigations are provided to address the high potential/sensitivity for historic-period archaeological resources to be encountered during Project-related, ground-disturbing activities. It is anticipated that implementation of mitigation measures noted here and within the Cultural Resources section of this document, will reduce, or eliminate adverse impacts to tribal cultural resources if discovered during construction.

**MITIGATION:**

**MM – Tribal Cultural Resources – 1)** Upon discovery of any tribal cultural resources (TCR’s), all ground-disturbing and construction activities shall cease on the Project site until the find can be assessed by a registered professional archeologist.

**MM – Tribal Cultural Resources – 2)** Although unlikely, if human remains are encountered within the Project Area during Project-related ground-disturbing activities, all work must stop within 100-feet of the discovery area, the area shall be secured to prevent further disturbance, and the Santa Clara County Coroner must be notified immediately. It is very important that the suspected human remains, and the area around them, are undisturbed and the proper authorities are called to the scene as soon as possible, as it could be a crime scene. The Coroner will determine if the remains are precontact period Native American remains or of modern origin and if any further investigation by the Coroner is warranted. If the remains are suspected to be those of a precontact period Native American, the Coroner shall contact the NAHC by telephone within 24-hours. The NAHC will immediately notify the person it believes to be the most likely descendant (MLD) of the remains. The MLD has 48-hours to make recommendations to the landowner for treatment or disposition of the human remains. If the MLD does not make recommendations within 48-hours, the landowner shall reinter the remains in an area of the property secure from further disturbance. If the landowner does not accept the descendant’s recommendations, the owner or the descendant may request mediation by NAHC. According to the California Health and Safety Code, six or more human burials at one location constitutes a cemetery (Section 8100), and willful disturbance of human remains is a felony (Section 7052). An archaeologist shall also be retained to evaluate the historical significance of the discovery, the potential for additional remains, and to provide further recommendations for treatment of the site in coordination with the MLD.

Sources: 1, 2 & 4

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **19. UTILITIES AND SERVICE SYSTEMS:**  Would the project: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? |  |  |  |  |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? |  |  |  |  |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? |  |  |  |  |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? |  |  |  |  |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments? |  |  |  |  |
| f) Be served by a landfill with enough permitted capacity to accommodate the project’s solid waste disposal needs? |  |  |  |  |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? |  |  |  |  |

**DISCUSSION:**

a) Wastewater treatment services are provided by the West Valley Sanitation District. The district has adequate capacity to service the site and therefore the proposed Project would not cause the district to exceed wastewater treatment requirements.

b, d, e) The Santa Clara County Valley Water District and San Jose Water Company provide water service to the City of Saratoga. The District is responsible for designing and building local water reservoirs and water distribution facilities and operating water treatment plants. The District then sells treated water to local water retail agencies that serve communities using their own distribution systems. San Jose Water Company is the water retailer that provides water to Saratoga residents.

c) The City uses a storm water collection system, in conjunction with the natural creek drainage system, to manage storm water runoff. Storm water collected through this system ultimately drains into the San Francisco Bay. The Project includes several bioretention basins which would be required to be installed as part of the subdivision improvements for adequate storm water disposal. In addition, the proposed development will require any new development on site to incorporate Low Impact Design techniques and that stormwater runoff be maintained on site to the maximum extent possible.

f) Solid waste and recycling service are provided by West Valley Collection and Recycling (WVC&R). Solid waste is picked up Monday through Friday weekly, depending on the Saratoga neighborhood. Paper, plastic, metal, glass and green waste, such as lawn trimmings, can be recycled. All recyclables collected are transmitted to the Material Recovery Facility located in San Jose, where they are sorted and processed into new materials. E-waste is not collected by WVC&R at this time but may be dropped off by residents at the Material Recovery Facility.

g) Solid waste and recycling services is available to the Project. Development of the site would be consistent with the proposed General Plan and would need to comply with all federal and state regulations as well as any local goals and policies related to solid waste.

Therefore, the Project would be less than significant impact on utilities and service systems.

**MITIGATION:** None

Sources: 2 & 14

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **20. WILDFIRE:**  Would the project result in: | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Substantially impair an adopted emergency response plan or emergency evacuation plan? |  |  |  |  |
| b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire? |  |  |  |  |
| c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment? |  |  |  |  |
| d) Expose people to significant risks, including downslope or downstream flooding or landslides as a result of runoff, post-fire slope instability, or drainage changes? |  |  |  |  |

**DISCUSSION:**

a-d) Based on the Fire Hazard Severity Zone mapping prepared by Cal FIRE, the project site is not in a designated Wildland-Urban Interface (WUI) Fire area as identified in the Safety Element of the Saratoga General Plan. Therefore, the Project would not likely be threatened by wildfires or pollutants from a wildfire or uncontrolled spread of wildfire. Quito Road which borders the property, is designated as an evacuation route in the Safety Element of the Saratoga General Plan. The site and surrounding sites are on level topography so there are no impacts from runoff, post-fire slope instability, or drainage changes.

**MITIGATION:** none

Sources: 1, 2 & 13

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **21. MANDATORY FINDINGS OF SIGNIFICANCE** | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? |  |  |  |  |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? |  |  |  |  |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? |  |  |  |  |

**DISCUSSION:**

a) The Project Applicant, Pinn Brothers Development, is proposing to subdivide the existing 11.43-acre parcel into ten-lots ranging in size from .92 acres to 1.2 acres. The Project would create a new private cul-de-sac with a connection to Quito Road. The private street would provide access to seven parcels and the remaining three parcels would take access from Vessing Road. If the subdivision is approved, it would allow for the construction of ten, new single-family homes and accessory dwelling units.

The Project Arborist Report inventoried 683 trees. Tree species include, but are not limited to Coast Live Oak, Black Walnut and Black Acacia. There are 515 native and 63 non-native trees that would be considered “protected trees” by the City of Saratoga Code of Ordinance. The Project subdivision improvements include a new cul-de-sac, utility and storm drain improvements and would require the removal of 56 protected trees. For those trees that are to remain, the arborist report contains recommendations for tree replacements and protection during construction and are included as mitigation measures in the Biology section of this document. The City Arborist has reviewed and approved the tree removal associated with the subdivision improvements. City arborist review and approval would also be required at the time of development of the individual parcels.

Olbering Environmental, Inc. conducted a field reconnaissance survey and prepared a Biological Resources Analysis Report as discussed in the Biology section of this document. The report was prepared for the purpose of identifying sensitive plant and wildlife species, sensitive habitats, and biological constraints potentially occurring on the property. The property is located along San Tomas Aquinas Creek with a portion of the creek abutting the northeast corner of the parcel along Quito Road. The report concludes that the property includes wetlands/waters that may be considered jurisdictional by the Army Corps of Engineers, RWQCB, or the CDFW. The report includes recommendations for Creek Protection to protect the creek, its banks, and riparian habitat. The protection zone would be shown on the final subdivision map as a Creek Protection Easement that would preclude the construction of new permanent structures (buildings) within the riparian drip line as shown in Figure 10 – Habitat Map within the report. This would ensure that the trees of the riparian corridor are protected from damage to their roots and crowns and provides a significant buffer from the creek and its banks.

The Report concludes that no special-status plant species were determined to have potential to occur on the project site. However special-status wildlife, mammals, amphibian, and reptile species were found to have the potential to occur on the project site. Mitigation Measures are included in the Biology section of this document. Mitigation measures would decrease any impacts to wildlife, mammals, amphibians, and reptile species.

There is no evidence to suggest that the proposed project has the potential to eliminate important examples of the major periods of California history or prehistory. However, during grading activities, there is always the potential to inadvertently disturb previously unknown historic and prehistoric resources. In the event this should occur, mitigation measures are included in the Cultural Resource section to ensure the impact would not be significant.

b) The Project does not have impacts that are individually limited, but cumulatively considerable. The Project site is surrounded by developed single family homes on lots of similar size.

c) The proposed Project is a residential project and does not have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly.

**D. SOURCES**

1. Tentative Map
2. City of Saratoga General Plan
3. City of Saratoga Zoning Ordinance and Map
4. City of Saratoga Heritage Resource Inventory
5. City of Saratoga Ground Movement Potential Map
6. City staff review of the project.
7. California Department of Transportation State Scenic Highways Map
8. Department of Conservation Farmland Map 2018
9. Bay Area Air Quality Management District, California Environmental Quality Act Air Quality Guidelines. May 2017.
10. Bay Area Air Quality Management District. 2017 Clean Air Plan: Spare the Air, Cool the Climate. April 19, 2017.
11. California Department of Toxic Substances Control. EnviroStor Database; June 2021
12. Federal Emergency Management Agency.
13. [Cal Fire Hazard Zone](https://gis.data.ca.gov/datasets/789d5286736248f69c4515c04f58f414) Map October 2008
14. [Santa Clara Valley Water District 2015 Urban Water Management Plan](https://www.valleywater.org/your-water/water-supply-planning/urban-water-management-plan)

**E. EXHIBITS**

1. Tentative Map for 14521 Quito Road, dated August 11, 2022
2. HMH Arborist Report dated February 11, 2022
3. City Arborist Memo dated August 10, 2022
4. Olbering Environmental, Inc. Biological Resources Analysis Report dated January 2022
5. Evans & DeShazo Historic Resource Evaluation (HRE) dated September 6, 2021
6. Evans & De Shazo Archaeological Study dated March 31, 2022
7. Quantum Geotechnical, Inc Preliminary Geotechnical Feasibility Assessment Report dated November 16, 2020
8. Hexagon Transportation Consultants, Inc. Traffic Impact Analysis dated December 3, 2021

**MITIGATION MEASURES**

Ten-Lot Subdivision

14521 Quito Road

Saratoga, CA

(APN 397-05-028)

**MM – Air Quality – 1)** All exposed surfaces (e.g. parking areas, staging areas, soil piles, stockpiles, graded area, and unpaved access roads) shall be watered twice daily, or as often as needed, treated with non-toxic soil stabilizers, or covered to control dust emissions. Watering should be sufficient to prevent airborne dust from leaving the site.

**MM – Air Quality – 2)** All haul trucks transporting soil, sand, or other loose material off site shall be covered.

**MM – Air Quality – 3)** All visible mud or dirt track-out onto adjacent public roads and paved access roads shall be removed using wet power (with reclaimed water, if possible) vacuum street sweepers at least once per day, or as often as needed. The use of dry power sweeping is prohibited.

**MM – Air Quality – 4)** All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.

**MM – Air Quality – 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.

**MM – Air Quality – 6)** Idling times shall be minimized either by shutting equipment off when not in use or by reducing the maximum idling time to 5 minutes (as required by California airborne toxics control measure Title 13 CCR Section 2485). Clear signage shall be provided for construction workers at all access points.

**MM – Air Quality – 7)** All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

**MM – Air Quality – 8)** A publicly visible sign shall be posted with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. BAAQMD’s phone number also shall be visible to ensure compliance with applicable regulations.

**MM – Air Quality – 9)** The Applicant’s project manager or his/her designee shall verify compliance that these measures are included in the Project’s grading plan and have been implemented during normal construction site inspections.

**MM – Biologic Resources – 1)** **Corps and State Regulated Wetlands/Waters** – Jurisdictional wetlands and waters potentially regulated under the authority of the Corps, RWQCB and CDFW are present on the property. Fill of these regulated features shall require authorization under Sections 404 and 401 of the Clean Water Act (CWA) and authorization under 1600 of the Fish and Wildlife Code. A Corps wetland delineation should be prepared to document the actual extent of jurisdictional features if any construction activity could result in impacts to wetland/waters. If the wetland/waters are deemed jurisdictional and construction activities are proposed that could impact these features, permits shall be obtained prior to construction. Setbacks from the wetlands/water features shall be required to protect habitat quality and to protect water quality.

**MM – Biologic Resources – 2)** **Creek Protection Easement** – A Creek Protection Easement that protects the creek, its banks, and riparian habitat shall be established that precludes the construction of new permanent structures of any kind within the riparian drip line as seen on Figure 10 – Habitat Map prepared by Olbering Environmental, Inc. This would ensure that the trees of the riparian corridor are protected from damage to their roots and crowns and would provide a significant buffer from the creek and its banks.

**MM - Biologic Resources – 3)** **Riparian Buffer Zone** – A 50-foot riparian buffer zone measured from the Riparian Dripline as shown on Figure 10 – Habitat Map prepared by Olbering Environmental, Inc., shall be established and shown on the final subdivision map, where construction of new structures may take place within the following additional mitigation and minimization measures.

1. Installation of a wildlife exclusion fence. The fence shall be a minimum of 3-feet in height and shall be placed at the edge of the riparian drip line to prevent any potential wildlife from entering the construction area from the creek and riparian corridor.
2. Construction Monitoring. A qualified biological construction monitor shall be present daily while initial grubbing and grading takes place. Once the construction area has been cleared of all vegetation and select trees have been removed, biological construction monitoring can be reduced to once per week site checks for the remainder of the grading period.
3. Installation of BMPs along the Creek Protection Easement shall be included.

**MM – Biologic Resources – 4) Creek Protection Easement planting –**Within the 50-foot riparian buffer zone any new landscaping shall be limited to native riparian plant materials.

**MM - Biologic Resources – 5)** **Tree Preservation and Protection (non-riparian)** – Tree protection shall be implemented during construction activities as follows:

1. **Site Preparation**: All existing trees shall be fenced off 10’ beyond the outside drip line (foliar spread) of the tree. Alternatively, where this is not feasible, fence to the drip line of the tree. Where fencing is not possible, the trunk shall be protected straw waddle and orange snow fencing. The fence shall be a minimum of six feet high, made of pig wire with steel stakes or any material superior in quality, such as cyclone fencing. Tree protection zone sign shall be affixed to fencing at appropriate intervals as determined by the arborist on site. If the fence is within the dripline of the trees, the foliar fringe shall be raised to offset the chance of limb breakage from construction equipment encroaching within the dripline. All contractors, subcontractors and other personnel shall be warned that encroachment withing the fenced area is forbidden without the consent of the certified arborist on the project. This includes, but is not limited to, storage of lumber and other materials, disposal of paints, solvents or other noxious materials, parked cars, grading equipment or other heavy equipment. Penalties, based on the cost of remedial repairs and the evaluation guide published by the international society of arboriculture, shall be assessed for damages to the trees. See tree preservation detail for additional information, including tree protection zone sign.
2. **Grading/excavating**: All grading plans that specify grading within the dripline of any tree, or within the distance from the trunk as outlined in the site preparation section above when said distance is outside the dripline, shall first be reviewed by a certified arborist. Provisions for aeration, drainage, pruning tunneling beneath roots, root pruning or other necessary actions to protect the trees shall be outlined by an arborist. If trenching is necessary within the area as described above, said trenching shall be undertaken by hand labor and dug directly beneath the trunk of the tree. All roots 2 inches or larger shall be tunneled under and other roots shall be cut smoothly to the trunk side of the trench. The trunk side should be draped immediately with two layers of untreated burlap to a depth of 3 feet from the surface. The burlap shall be soaked nightly and left in place until the trench is back filled to the original level. An arborist shall examine the trench prior to back filling to ascertain the number and size of root cuts and shall suggest the necessary remedial repairs.
3. **Remedial repairs**: An arborist shall have the responsibility of observing all ongoing activities that may affect the trees and prescribing necessary remedial work to ensure the health and stability of the trees. This includes, but is not limited to, all arborist activities brought out in the previous sections. In addition, pruning, as outlined in the “pruning standards” of the western chapter of the International Society of Arboriculture, shall be prescribed as necessary. Fertilizing, aeration, irrigation, pest control and other activities shall be prescribed according to the tree needs, local site requirements, and state agricultural pest control laws. All specifications shall be in writing. For pest control operations, consult the local county agricultural commissioner’s office for individuals licensed as pest control advisors or pest control operators.
4. **Final inspection**: Upon completion of the project, the arborist shall review all work undertaken that may impact the existing trees. Special attention shall be given to cuts and fills, compacting, drainage, pruning and future remedial work. An arborist should submit a final report in writing outlining the ongoing remedial care following the final inspection.

**MM - Biologic Resources – 6) Riparian Tree Removal** – If trees within the riparian habitat must be removed for any reason, a California Department of Fish and Wildlife Streambed Alteration Agreement shall be required. For riparian trees, a mitigation ratio of 1 replacement tree for every inch of DBH of riparian tree is required for all trees larger than 6” DBH. (Example: a 12” DBH tree removed shall be mitigated by planting a minimum of 12 individual replacement trees). Each mitigation tree shall be a minimum of 5-gallon size.

**MM - Biologic Resources – 7) Pre-Construction Avian Survey** – If project construction-related activities take place during the nesting season (February through August), preconstruction surveys for nesting passerine birds and raptors (birds of prey) within the project site and the large trees within the oak woodland and riparian areas, shall be conducted by a competent biologist 14 days prior to the commencement of the tree removal or site grading activities. If any bird listed under the Migratory Bird Treaty Act is found to be nesting within the project site or within the area of influence, an adequate protective buffer zone shall be established by a qualified biologist to protect the nesting site. This buffer shall be a minimum of 75 feet from the project activities for passerine birds, and a minimum of 200 feet for raptors. The distance shall be determined by a competent biologist based on the site conditions (topography, if the nest is in line of sight of the construction and the sensitivity of the birds nesting). The nest site(s) shall be monitored by a competent biologist periodically to see if the birds are stressed by the construction activities and if the protective buffer needs to be increased. Once the young have fledged and are flying well enough to avoid project construction zones (typically by August), the project can proceed without further regard to the nest site(s).

**MM - Biologic Resources – 8) Pre-construction Bat Survey** – To avoid “take” of special-status bats, the following mitigation measures shall be implemented prior to the removal of any existing trees or structures on the project site:

1. A bat habitat assessment shall be conducted by a qualified bat biologist during seasonal periods of bat activity (mid-February through mid-October) to determine suitability of each existing structure as bat roost habitat.
2. Structures found to have no suitable openings can be considered clear for project activities as long as they are maintained so that new openings do not occur.
3. Structures found to provide suitable roosting habitat, but without evidence of use by bats, may be sealed until project activities occur, as recommended by the bat biologist. Structures with openings and exhibiting evidence of use by bats shall be scheduled for humane bat exclusion and eviction, conducted during appropriate seasons, and under supervision of a qualified bat biologist.
4. Bat exclusion and eviction shall only occur between February 15 and April 15, and from August 15 through October 30, in order to avoid take of non-volant (non-flying or inactive, either young, or seasonally torpid individuals. **OR**

A qualified wildlife biologist experienced in surveying for identifying bat species shall survey the portion of the project site with large trees and abandoned structures. If tree removal is proposed, to determine if any special-status bats reside in the trees. Any special-status bats identified should be removed without harm. Bat houses sufficient to shelter the number of bats removed shall be erected in open space areas that would not be disturbed by project development.

**MM - Biologic Resources – 9) Pre-construction Amphibian (CRLF Protocol-FYLF VES) Surveys** – A qualified Biologist shall survey the project site for CRLF (and other sensitive wildlife species including FYLF) preceding the commencement of construction activities to verify absence/presence of the species. Surveys shall be performed using USFWS protocol.

***Surveys Performed during the breeding season (October 1 – June 30):*** USFWS recommends a total of up to eight surveys to determine the absence of CRLF at or near a project site. Two-day surveys and four-night surveys would be required during the breading season. If CRLF are identified at any time during the course of surveys, no additional surveys are needed.

***Surveys Performed during the non-breeding season (July 1 – September 30):*** One day and one night survey would be required during the non-breeding season. At least one survey shall be completed between January 1 and August 15. If CRLF are identified at any time during the course of surveys, no additional surveys are needed.

**MM – Biologic Resources – 10) Pre-Construction Dusky-footed Woodrat Survey** – Prior to commencing any Project activities that may result in the destruction of dusky-footed woodrat nests; surveys shall be conducted by a qualified biologist to determine the occurrence of the nests.

**MM – Biologic Resources – 11) Erosion Control** – During construction, runoff from the Property could adversely affect aquatic life within the adjacent water features. Surface water runoff could remove particles of fill or excavated soil from the site, or could erode soil down-gradient, if the flow were not controlled. Deposition of eroded material in adjacent water features could increase turbidity, thereby endangering aquatic life, and reducing wildlife habitat. Implementation of appropriate mitigation measures would ensure that impacts to aquatic organisms would be avoided or minimized. Mitigation measures shall include best management practices (BMP’s) such as hay bales, silt fencing, placement of straw mulch and hydro seeding of exposed soils after construction as identified in the Storm Water Pollution Prevention Plan (SWPPP).

**MM – Biologic Resources – 12) Tree Protection -** A tree protection plan shall be developed by the project arborist and shall be reviewed and approved by the City Arborist prior to the arrival of construction equipment or materials on site. Adhering to this plan will become a condition of approval for the project. The project arborist shall visit the site every two weeks during grading trenching or digging activities and every six weeks thereafter. The project arborist shall supervise any permitted pruning or root pruning of trees on site. Roots of protected trees measuring two inches in diameter or more shall not be cut without prior approval of the Project Arborist. Should any protected tree be damaged beyond repair, new trees shall be planted as required by the City Arborist.

**MM – Biologic Resources – 13)** Santa Clara Valley Water Resources Protection Collaborative’s Guidelines and Standards for Land Use Near Streams, adopted as guidelines by the City shall be implemented. A 2:1 slope stability protection area as measured from the toe of the bank of the creek shall be shown on parcels 3, 4 and 10. No structures including pools shall be located within the slope stability protection area.

**MM – Biologic Resources – 14)** Riparian Vegetation removal and disturbance shall be avoided during grading activities to prevent the degradation of existing riparian habitat and/or contribute to soil loss critical to the continued health and regeneration of riparian trees.

**MM – Cultural Resource – 1)**If human remains are encountered within the Project Area during Project-related activities, all work shall stop within 100-feet of the discovery area, the area shall be secured to prevent further disturbance. The Santa Clara County Coroner shall be notified immediately. The suspected human remains, and the area around them, shall be undisturbed and the proper authorities are called to the scene as soon as possible. The Corner shall determine if the remains are pre-contact period Native American remains or of modern origin and if there are any further investigation by the coroner is warranted. If the corner suspects the remains are those of a pre-contact period Native American, the coroner shall contact the Native American Heritage Commission (NAHC) within 24-hours so that a Most Likely Descendant (MLD) can be designated to provide further recommendations regarding treatment of the remains. The MDL has 48-hours to make recommendations to the landowner for treatment or disposition of the human remains. If the MLD does not make recommendations within 48-hours, the landowner shall reinter the remains in an area of the property secure from further disturbance. If the landowner does not accept the descendant’s recommendations, the owner or the descendant may request mediation by NAHC. According to the California Health and Safety Code, six or more human burials at one location constitutes a cemetery (Section 8100), and willful disturbance of human remains is a felony (Section 7052). An archaeologist shall also be retained to evaluate the historical significance of the discovery, the potential for additional remains, and to provide further recommendations for treatment of the site in coordination with the MLD.

**MM – Cultural Resource – 2)** **Prepare an Archaeological Monitoring Plan Specific to the Proposed Development and Monitor for the Presence of Buried Historic-Period Archaeological Resources.** A Secretary of Interior qualified archaeologist shall prepare an Archaeological Monitoring Plan (AMP) and provide the appropriate level of archaeological monitoring for Project-related ground-disturbing activities. The AMP shall provide details regarding the types of archaeological resources that could potentially be found within the Project Area during construction, the locations where they would most likely occur, and procedures to follow should any archaeological material be encountered. The AMP shall provide procedures and guidelines for proper notification to agencies and stakeholders, in-field assessment of the significance of any archaeological deposits identified during monitoring, and the permanent curation of artifacts from CRHR-eligible deposits that may be discovered. The archaeological monitor shall be empowered to halt construction activities at the location of a discovery to review possible archaeological material and to protect the resource while the deposit is being assessed. Monitoring shall continue until, in the archaeologist’s judgement, archaeological resources are not likely to be encountered. A report shall also be prepared to document the findings after construction is completed.

**MM – Cultural Resource – 3) Stop Work if Archaeological Resources Are Discovered During Ground-Disturbing Activities.** If an archaeological deposit is encountered during Project-related, ground disturbing activities, all work within 50 feet of the discovery shall be redirected until the archaeologist assesses the find and makes recommendations for the treatment of the discovery. If avoidance of the archaeological deposit is not feasible, the archaeological deposit shall be evaluated for its eligibility for listing in the CRHR. If the deposit is found to be eligible, adverse impacts shall be mitigated. Mitigation may include excavation of the archaeological deposit in accordance with the Secretary of Interior’s Standards and Guidelines for Archaeological Documentation that may include data recovery using standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; and accessioning of archaeological materials and a technical data recovery report at a curation facility. Upon completion of the assessment, the archaeologist shall prepare a report to document the methods and results of the assessment. The report shall be submitted to the Project applicant, City of Saratoga, and the NWIC upon completion of the resource assessment.

**MM – Geology and Soils – 1)** The applicant’s Consultant shall coordinate with the Project Team to provide water well destruction, grading and demolition recommendations and observe site demolition for conformance with their recommendations. Note that, well demolition requires a permit and registration from Valley Water’s Well and Water Measurement Unit.

**MM – Geology and Soils – 2)** The applicant’s consultant shall delineate the extent of the in-ground swimming pool backfill on final maps prior to final map recordation to assist with anticipated site development.

**MM – Hydrology and Water Quality – 1)** Prior to beginning of construction, the applicant shall file a Notice of Intent (NOI) with Regional Water Quality Control Board, if required, to obtain coverage under the State General Construction Activity NPDES Permit. Satisfactory evidence of the filing of the NOI shall be furnished to the City. The applicant shall comply with all provisions and conditions of the State Permit, including preparation and implementation of a Strom Water Pollution Prevention Plan (SWPPP). Copies of the SWPPP shall be submitted to the City prior to beginning of construction and maintained on site at all times.

**MM – Hydrology and Water Quality – 2)** Disposition and treatment of stormwater shall comply with the applicable requirements of the National Pollution Discharge Elimination System ("NPDES") Permit issued to the City of Saratoga and the implementation standards established by the Santa Clara Valley Urban Runoff Pollution Prevention Program (collectively the "NPDES Permit Standards"). Prior to issuance of Zoning Clearance for a Demolition, Grading or Building Permit for this Project, a Stormwater Management Plan shall be submitted to the Community Development Director for review and approval demonstrating how all storm water will be retained on-site and in compliance with the NPDES Permit Standards. If all stormwater cannot be retained on-site due to topographic, soils or other constraints, and if complete retention is not otherwise required by the NPDES Permit Standards, the Project shall be designed to retain on-site the maximum reasonably feasible amount of stormwater and to direct all excess stormwater away from adjoining property and toward stormwater drains, drainageways, streets or road right-of- ways and otherwise comply with the NPDES Permit Standards.

**MM – Hydrology and Water Quality – 3)** In areas of special flood hazard designated as floodways as established in SMC §16-66.050(b) encroachments, including fill, new construction, substantial improvement, and other new development is prohibited unless certifications by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in the base flood elevation during the occurrence of the base flood discharge. All new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of SMC §16-66.090 through §16-66.140.

**MM – Hydrology and Water Quality – 4)** In all areas of special flood hazard zones new construction and substantial improvements shall be constructed in accordance with SMC §16.66.090 Standards for Construction, and §16.66.100 Standards for Utilities.

**MM – Hydrology and Water Quality – 5)** All new structures located on Parcels 3, 4 and 10 shall be located outside the 2:1 Slope Stability Protection Area as measured from the toe of the bank of the creek in accordance with the Santa Clara Valley Water Resources Protection Collaborative’s Guidelines and Standards for Land Use Near Streams.

**MM – Tribal Cultural Resources – 1)** Upon discovery of any tribal cultural resources (TCR’s), all ground-disturbing and construction activities shall cease on the Project site until the find can be assessed by a registered professional archeologist.

**MM – Tribal Cultural Resources – 2)** Although unlikely, if human remains are encountered within the Project Area during Project-related ground-disturbing activities, all work must stop within 100-feet of the discovery area, the area shall be secured to prevent further disturbance, and the Santa Clara County Coroner must be notified immediately. It is very important that the suspected human remains, and the area around them, are undisturbed and the proper authorities are called to the scene as soon as possible, as it could be a crime scene. The corner will determine if the remains are precontact period Native American remains or of modern origin and if there are any further investigation by the coroner is warranted. If the remains are suspected to be those of a precontact period Native American, the coroner shall contact the NAHC by telephone within 24-hours. The NAHC will immediately notify the person it believes to be the most likely descendant (MLD) of the remains. The MLD has 48-hours to make recommendations to the landowner for treatment or disposition of the human remains. If the MLD does not make recommendations within 48-hours, the landowner shall reinter the remains in an area of the property secure from further disturbance. If the landowner does not accept the descendant’s recommendations, the owner or the descendant may request mediation by NAHC. According to the California Health and Safety Code, six or more human burials at one location constitutes a cemetery (Section 8100), and willful disturbance of human remains is a felony (Section 7052). An archaeologist shall also be retained to evaluate the historical significance of the discovery, the potential for additional remains, and to provide further recommendations for treatment of the site in coordination with the MLD.