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FROM: Rebecca Auld, Vice President  
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SUBJECT: **PLN2021-0064 - Fa Yun Chan Temple Project IS/MND – Review and Discussion of Comments and Project Revisions**

DATE: November 19, 2025

## 1. PURPOSE OF THIS MEMO

This memorandum presents and discusses changes to the project description that were made subsequent to issuance of the Initial Study/Mitigated Negative Declaration ("IS/MND") for the Fa Yun Chan Temple Project ("project") and provides a discussion of comments received in response to the IS/MND.

Though the California Environmental Quality Act ("CEQA") does not require a Lead Agency to formally respond to written comments received on an IS/MND, this memorandum is being provided by the IS/MND preparer to demonstrate pursuant to CEQA Guidelines Section 15073.5 (excerpted below) that the project revisions and information presented in this document do not constitute "substantial revisions" requiring recirculation of the IS/MND and that the comments do not present substantial evidence supporting a fair argument that the project may have a significant environmental impact or that the IS/MND should be revised and recirculated for public review.

As discussed later in this memorandum, in response to reviewing Agency comments, revisions to increase the effectiveness of a mitigation measure are proposed to be adopted with the Mitigation Monitoring and Reporting Program (MMRP). As indicated in CEQA Guidelines Section 15073.5(c)(1), replacement with equal or more effective measures pursuant to CEQA Guidelines Section 15074.1 (excerpted below) is explicitly allowed without triggering recirculation.

### **CEQA Guidelines Section 15073.5 - Recirculation of a Negative Declaration Prior to Adoption**

- (a) A lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to

Section 15072, but prior to its adoption. Notice of recirculation shall comply with Sections 15072 and 15073.

- (b) A “substantial revision” of the negative declaration shall mean:
  - (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or
  - (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.
- (c) Recirculation is not required under the following circumstances:
  - (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.
  - (2) New project revisions are added in response to written or verbal comments on the project’s effects identified in the proposed negative declaration which are not new avoidable significant effects.
  - (3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
  - (4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.
- (d) If during the negative declaration process there is substantial evidence in light of the whole record, before the lead agency that the project, as revised, may have a significant effect on the environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and certify a final EIR prior to approving the project. It shall circulate the draft EIR for consultation and review pursuant to Sections 15086 and 15087, and advise reviewers in writing that a proposed negative declaration had previously been circulated for the project.

**CEQA Guidelines Section 15074.1 - Substitution of Mitigation Measures in a Proposed Mitigated Negative Declaration**

- (a) As a result of the public review process for a proposed mitigated negative declaration, including any administrative decisions or public hearings conducted on the project prior to its approval, the lead agency may conclude that certain mitigation measures identified in the mitigated negative declaration are infeasible or otherwise undesirable. Prior to approving the project, the lead agency may, in accordance with this section, delete those mitigation measures and substitute for them other measures which the lead agency determines are equivalent or more effective.
- (b) Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:
  - (1) Hold a public hearing on the matter. Where a public hearing is to be held in order to consider the project, the public hearing required by this section may be combined with that hearing. Where no public hearing would otherwise be held to consider the project, then a public hearing shall be required before a mitigation measure may be deleted and a new measure adopted in its place.

- (2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.
- (c) No recirculation of the proposed mitigated negative declaration pursuant to Section 15072 is required where the new mitigation measures are made conditions of, or are otherwise incorporated into, project approval in accordance with this section.
- (d) "Equivalent or more effective" means that the new measure will avoid or reduce the significant effect to at least the same degree as, or to a greater degree than, the original measure and will create no more adverse effect of its own than would have the original measure.

## 2. SUMMARY CONCLUSIONS

As demonstrated in this document, the revisions to the proposed project, the comments, and the information presented in this memorandum are not "substantial revisions" that could trigger recirculation of the IS/MND or preparation of an environmental impact report under CEQA Guidelines Section 15073.5, as demonstrated by the following statements (linked to the CEQA Guidelines subsections as indicated):

- (b)(1) No new significant impacts have been identified.
- (b)(2) There are no changes in conclusions with respect to impact significance.
- (c)(1) Revised Mitigation Measure Bio-1 incorporates suggestions from the California Department of Fish and Wildlife and would have the same or more effectiveness to reduce the impact identified in the IS/MND.
- (c)(2) The proposed project revisions were added in response to comments on the project during consideration of the IS/MND and do not result in or respond to new avoidable significant effects.
- (c)(3) No measure or condition discussed in this document would result in significant environmental effects.
- (c)(4) Information added with this document clarifies, amplifies, or makes insignificant modifications to the negative declaration.

The information in this document does not identify new significant impacts or mitigation measures or changed impact conclusions. The comments received, project revisions, and the information in the information in this response do not require recirculation of the IS/MND or preparation of an environmental impact report under Section 15073.5 of the CEQA Guidelines.

## 3. REVISED PROJECT DESCRIPTION

Since the IS/MND was circulated and in response to comments about the project during the IS/MND review, the applicant has made some revisions to the proposed project, as follows:

### *Physical Changes*

To further minimize the visibility of the project, the roof color for proposed buildings has been changed from blue to green, and the roof top of Building 5 has been lowered by 3.5 feet to a height of 43.5 feet above ground level.

The visual models presented in the IS/MND, Figures 12b, 13b and 14b, were recreated with these changes, and are included as Attachment 2 to this document along with the original figures for comparison.

### ***Operational Changes***

In response to water usage concerns, some operational details of the project were modified or clarified as follows (other details remain unchanged):

- Public tours of the Buddha statues are no longer proposed. (Previously, up to 30 people in two or three groups each day were proposed.)
- Proposed Chan Meditation practice for up to 40 attendees, previously proposed on Sundays, has been limited to two Sundays per month.
- For the four annual events that include 100 people or more (three single day meditation retreats with up to 100 guests and the annual week-long Dharma Service Event with up to 150 daily guests), it has been clarified that portable toilets and a drinking water and filling station tank will be rented. Potable water for the filling station would be sourced off site.
- Rain collection and storage will be used for landscape irrigation. Groundwater pumping will not be used for landscape irrigation.

### ***Entitlement Changes***

In coordination with the County review of the project revisions, a zoning change - previously proposed from Single Family Residential (R1) and Agricultural (A) to Planned Development (PD) - is no longer proposed or expected to be required.

### ***Consideration of Discretionary Permits***

Section 17.54.160 (*Combined Applications*) of the Zoning Ordinance states that where project approval requires a Conditional Use Permit (CUP) as well as Site Development Review (SDR), the CUP process will guide the permit consideration. Under Section 17.52.902 of the Zoning Ordinance, the project will require a Variance from Parking requirements for the 28 vehicle spaces proposed, less than the 38 spaces that will be required.

### ***Environmental Consideration of Project Revisions***

The proposed physical changes would not substantially change the construction details or site plan included in the analysis completed for the IS/MND. The revised color and lowered roof line of Building 5 would not have the same or reduced impact on Aesthetics topics.

The proposed operational changes would result in fewer visitors to the site than were analyzed in the IS/MND, which would result in marginally reduced impacts with respect to operational Transportation, Air Quality and Greenhouse Gas Emissions, and Noise. While the use of portable toilets and water stations for the eleven days a year that larger events would be hosted would require additional delivery trips, this would be more than offset with the reduction in trips from the removal of daily public tours, while also minimizing potential spikes in water usage and demand on the septic system.

These changes to the operation of the project would result in environmental impacts that are the same or reduced compared to those identified in the IS/MND, and would not cause new significant impacts or the need for new mitigation measures and therefore would not require recirculation of the IS/MND.

#### 4. SUPPLEMENTAL ASSESSMENT OF GROUNDWATER DRAWDOWN

In response to concerns about groundwater drawdown expressed during the IS/MND review, the applicant has worked with Balance Hydrologics, Inc. to submit a supplemental hydrological assessment. Using new data, the supplemental assessment supports the conclusion in the IS/MND that the project would not have a significant effect on groundwater supplies (IS/MND pages 83-84). The analysis and conclusions from the Groundwater Drawdown Supplemental Assessment are summarized in the "Groundwater" topic under the *Discussion of Public Comments* later in this document and included in full as Attachment 3 to this document.

The information in this supplemental assessment clarifies and amplifies the discussion of groundwater from the IS/MND. It does not identify new significant impacts or mitigation measures or changed impact conclusions and therefore does not require recirculation of the IS/MND or preparation of an environmental impact report under Section 15073.5 of the CEQA Guidelines.

#### 5. IS/MND COMMENTS AND RESPONSES

##### *List of Comments*

The comment period ran from August 2, 2024, through September 3, 2024. Five comment letters were received via email, as listed below.

##### Agency Comments

- State Water Resources Control Board, dated September 3, 2024 (and subsequent follow-up)
- California Department of Fish and Wildlife, dated September 5, 2024

##### Public Comments

- Jody Culver, dated August 12, 2024
- Ray Busch, dated August 29, 2024
- Susan and Cynthia Pisani, dated August 29, 2024

Verbal comments were received at the following public hearing:

- A public hearing was held before the Castro Valley Municipal Advisory Council on August 12, 2024. Verbal comments at the hearing from the council and public and included concerns about impacts on neighboring water supply, increased noise from visitors, weight restriction for Crow Canyon Road, residential density, driveway safety, privacy of adjoining properties, increased flooding risk, fire safety, visibility of project buildings, and increased use of septic systems.

All the comment letters and the verbal comment set (available as an excerpt from the approved meeting minutes) are included in full as Attachment 1 to this memo.

**State Water Resources Control Board**

Based on the project description in the IS/MND, the State Water Resources Control Board comments indicated that the project would be required to create a new public water system. However, as discussed above, the proposed project operations have been since revised and clarified, reducing the proposed number of visitors to the site. After reviewing the revised project description, the State Water Resources Control Board confirmed that when operated consistent with the proposal, the project would not meet the definition of a public water system. This follow-up coordination has been included with their original comment letter in Attachment 1. All but the following comments in the State Water Resources Control Board's comment original letter explicitly pertained to the formation of a new public water system – which is no longer required – and no further response is necessary to address these comments. The first and third bullet point comments relate to the possibility of the project reconnecting to the Norris Canyon Homeowner's Association (NCHA) public water system. The status at the time of writing this document was that the request to reconnect with the NCHA water system was not approved, and the project proposes to supply its own domestic water.

**California Department of Fish and Wildlife**

The responses here reference the numbered comments and recommended mitigation measures (MM) in the comment letter. Responses are provided in coordination with IS/MND biological subconsultant H.T. Harvey & Associates.

Comment 1: Alameda Whipsnake*Recommended MM #1: Habitat Assessment and Buffers*

As described in the Biological Resources Report (Attachment B to the IS/MND), H. T. Harvey & Associates conducted a detailed habitat assessment for all special-status species with potential to occur on the project site in May 2023. This assessment included all suitable habitat types for Alameda whipsnake, including basking, burrowing, dispersal, overwintering, and foraging habitats. Therefore, another habitat assessment is unnecessary.

Because the project proposes temporary and permanent impacts to suitable habitats for the Alameda whipsnake, avoidance buffers surrounding suitable habitats are not feasible. Therefore, this recommended mitigation measure is not necessary. Rather, the IS/MND includes MMs Bio-1 and Bio-2 (pages 53-56 of the IS/MND) that will reduce impacts to Alameda whipsnakes and their habitats to less-than-significant levels under CEQA.

*Recommended MM #2: Clearance Surveys*

The recommendations in this comment largely overlap the elements already included in MM Bio-1 in the IS/MND (page 53). MM Bio-1 for Alameda whipsnake already requires the project to retain a qualified biologist to conduct pre-activity surveys within construction disturbance areas within 24 hours prior to the initiation of construction related activities for Alameda whipsnakes. Those pre-activity surveys will include examination of all areas where whipsnakes will be present. MM Bio-1 also requires that the qualified biologist be present during any construction activities that could, in the biologist's opinion, potentially result in take of Alameda whipsnakes. If the applicant elects to apply for an incidental take permit (ITP) for the project, CDFW may include a condition in the ITP requiring CDFW approval of qualified biologists; however, MM Bio-1 already requires that these activities be performed by a qualified biologist, and CDFW approval of that biologist is not necessary to reduce impacts on the Alameda whipsnake to less-than-significant levels under CEQA.

The following revisions to MM Bio-1 are proposed for adoption with the MMRP to incorporate specific recommendations from CDFW.

- The required experience of the qualified biologist and the types of areas to investigate during preconstruction surveys has been added to bullet point 1: Qualified Biologist.
- The required radius of pre-activity surveys has been added to bullet point 3: Pre-Activity Survey.
- The timing of construction monitoring and procedures to follow upon discovery of Alameda whipsnakes, California red-legged frogs, California tiger salamanders, or western pond turtles has been added to bullet point 5: Construction Monitoring.

The full mitigation measure showing revised text is below. Additions are underlined.

### Mitigation Measure

**Bio-1: Alameda Whipsnake Impact Minimization Measures.** To minimize impacts on Alameda whipsnakes, the following measures shall be implemented.

- **Qualified Biologist.** Prior to project construction, the project proponent shall retain a qualified biologist(s) to perform preconstruction surveys, worker environmental awareness training, and on-site construction monitoring. The qualified biologist will have experience in the identification, life history, and suitable habitat of the Alameda whipsnake, California red-legged frog, California tiger salamander, and/or western pond turtle, as applicable. The qualified biologist will investigate all areas that could be used by Alameda whipsnakes, California red-legged frogs, California tiger salamanders, and/or western pond turtles for sheltering, movement, and other essential behaviors.
- **Worker Environmental Awareness Program.** Prior to commencing work at the project site, all construction personnel shall receive a worker environmental awareness training provided by the qualified biologist(s). At a minimum, the training shall include descriptions of the Alameda whipsnake, California red-legged frog, California tiger salamander, and western pond turtle and their habitats; the regulatory protections afforded these species; the general measures that are being implemented to conserve them as they relate to the proposed project, and the boundaries within which project activities may be accomplished.
- **Pre-Activity Survey.** The qualified biologist shall survey the study area and all areas within 100 feet of the study area, as access allows, within 24 hours prior to the initiation of construction-related activities for Alameda whipsnakes, California red-legged frogs, California tiger salamanders, and western pond turtles. If an individual of any of these species is detected during the pre-activity survey, they will be relocated to suitable habitat outside the project's impact areas (with approval from the USFWS/CDFW as appropriate).
- **Wildlife Exclusion Fence.** Prior to project construction, wildlife exclusion fencing shall be installed to prevent Alameda whipsnakes, California red-legged frogs, California tiger salamanders, and western pond turtles from entering project impact areas. This fencing shall be installed along the perimeter of the project footprint in a manner that shall prevent these species from entering the project footprint prior to the start of all work activities. The location and design of the fence shall be approved by a qualified biologist, and the qualified biologist shall also be present on site to monitor installation until the exclusion fence is complete.

- o At a minimum, the exclusion fencing shall be at least 3 feet high and the lower 6 inches of the fence shall be buried in the ground to prevent animals from crawling under. The remaining 2.5 feet shall be left above ground to serve as a barrier for animals moving on the ground surface. The fence shall be pulled taut at each support to prevent folds or snags, and supports shall be placed on the inside (project side) of the fencing. Escape ramps, funnels, or other features that allow animals to exit the construction area, but which will prohibit the entry of such animals, shall be provided in the exclusion fencing, and the top of the fencing shall be curved over on the outside of the fence to prevent animals climbing over it. Fencing shall be installed and maintained in good condition during all construction activities and shall be inspected and maintained daily until the completion of project construction. If equipment needs to pass through this fencing for work activities, a gate shall be installed to allow access and the fence shall be sealed at the end of each working day. Fencing shall be removed within 72 hours of the conclusion of construction activities.
- Construction Monitoring. The qualified biologist(s) will be present during any construction activities that could, in the biologist's opinion, potentially result in take of individual Alameda whipsnakes, California red-legged frogs, California tiger salamanders, or western pond turtles. The biologist will conduct clearance surveys at the beginning of each day and regularly throughout the workday when construction activities are occurring that may result in take of Alameda whipsnakes, California red-legged frogs, California tiger salamanders, or western pond turtles. Safety permitting, the qualified biologist will also investigate areas of disturbed soil for signs of the listed species within 30 minutes following the initial disturbance of that given area. If any Alameda whipsnakes, California red-legged frogs, California tiger salamanders, or western pond turtles are discovered at the site immediately prior to or during project activities, they will be allowed to move out of the area on their own. If they are unable to move out of the area on their own, they will be relocated by a qualified biologist to suitable habitat outside the project's impact areas (with approval from the USFWS/CDFW as appropriate). The biologist(s) shall have the authority to stop any work that may result in take of these species. The on-site biologist will be the contact for any employee or contractor who might inadvertently kill or injure an Alameda whipsnake, California red-legged frog, California tiger salamander, or western pond turtle or anyone who finds a dead, injured, or entrapped individual of any of these species.
- Immediate Work Stoppage. If an Alameda whipsnake, California red-legged frog, California tiger salamander, or western pond turtle, or an animal that could be one of these species (e.g., a similar species of reptile or amphibian), is observed within the work area during project activities, all work that could result in the injury or death of the individual shall stop immediately and the qualified biologist shall be immediately notified. The animal shall be allowed to leave the work area of its own volition. If it does not leave the area of its own volition, USFWS (for Alameda whipsnake, California red-legged frog, and California tiger salamander) and/or CDFW (for California tiger salamander and western pond turtle) shall be contacted to determine next steps. No individual of any of these species shall be handled without prior approval from the USFWS/CDFW.
- Avoid Plastic Monofilament Netting. No plastic monofilament netting or similar material shall be used in erosion control materials to avoid potential entrapment of Alameda



whipsnakes, California red-legged frogs, California tiger salamanders, and western pond turtles that may occur in project construction disturbance areas.

- Trenches. To prevent the inadvertent entrapment of Alameda whipsnakes, California red-legged frogs, California tiger salamanders, or western pond turtles, all excavated, steep-walled holes or trenches shall be covered at the end of each work day with plywood or similar materials. If this is not possible, one or more escape ramps constructed of earth fill or wooden planks shall be established in the hole. Before such holes or trenches are filled, they shall be thoroughly inspected for any animals. If at any time an Alameda whipsnake, California red-legged frog, California tiger salamander, or western pond turtle is found trapped or injured in these holes, the individual shall be relocated to suitable habitat outside the project's impact areas (with approval from the USFWS/CDFW as appropriate).
- Food Trash Removal. All food trash from project personnel shall be placed in containers with secure lids before the end of work each day in order to reduce the likelihood of attracting predators to the project site. If containers meeting these criteria are not available, all rubbish shall be removed from the project site at the end of each workday.

#### *Recommended MM #3: Compensatory Mitigation*

MM Bio-2 (page 55 of the IS/MND) requires that temporary impacts to Alameda whipsnake habitat be restored in place to return the habitat to conditions of equal or greater habitat quality as determined by a qualified biologist, which will effectively mitigate at a 1:1 ratio for temporary impacts. MM Bio-2 requires compensatory mitigation at a 2:1 ratio (mitigation : impact) if compensatory mitigation is provided via project-specific conservation and management of suitable habitat, or 1:1 ratio if mitigation is provided through the purchase of credits at a conservation bank. If the applicant provides mitigation through project-specific conservation and management of suitable habitat, they are required to prepare a habitat mitigation and monitoring plan that must be submitted to CDFW for review and approval.

The 3.18 acres of California annual grassland and 2.64 acres of coyote brush scrub habitats that comprise much of the 6.46 acres of Alameda whipsnake habitat to be permanently impacted by the project are densely vegetated with nonnative annual grasses and weedy, nonnative forbs. Therefore, they do not provide high-quality habitat for Alameda whipsnakes, which require a more open mosaic of low-growing grassland and scrub habitats for thermoregulation, movement, and support of adequate prey populations. If the applicant applies for an ITP, CDFW may require, as a condition of the ITP, compensatory mitigation ratios higher than 2:1; however, a 2:1 ratio is sufficient to mitigate for the loss of 6.46 acres of predominantly low-quality Alameda whipsnake habitat, and reduces impacts on Alameda whipsnake habitat to less-than-significant levels under CEQA.

#### *Recommended MM #4: Take Permit*

Whether or not to apply for an ITP is at the discretion of the project applicant. Given that MMs Bio-1 and Bio-2 in the IS/MND adequately reduce impacts on the Alameda whipsnake, obtaining an ITP is not necessary to reduce impacts on this species to less-than-significant levels under CEQA.

#### Comment 2: Western Pond Turtle

##### *Recommended MM #5: Western Pond Turtle Surveys*

The project site does not support aquatic habitats suitable for western pond turtles. Rather, the site provides low-quality upland dispersal and nesting habitat for the species in the form of densely vegetated California annual grasslands and scrub habitats. The recommended survey protocols for

western pond turtle provided via the link provided in the comment letter are specific to surveys conducted in streams, rivers, ponds, reservoirs and lakes, and are not applicable to the upland habitats on the project site. As noted in the response to comment #1, MM Bio-1 (page 53 in the IS/MND) requires pre-activity surveys for western pond turtles within 24 hours prior to the initiation of construction-related activities, and revisions are proposed for adoption with the MMRP to incorporate CDFW's recommendations for survey protocols where feasible. Recommended MM #5 is not necessary to reduce impacts on western pond turtles to less-than-significant levels.

*Recommended MM #6: Western Pond Turtle Relocation*

MM Bio-1 (page 53 in the IS/MND) also requires relocation of any individual western pond turtles detected during pre-activity surveys (with approval from the USFWS/CDFW as appropriate) and construction monitoring during any construction activities that could, in the biologist's opinion, potentially result in take of western pond turtles. Revisions to the text of MM Bio-1 are proposed for adoption with the MMRP to incorporate the recommendations in Recommended MM #6, above, but Recommended MM #6 is not necessary to reduce impacts on western pond turtles to less-than-significant levels.

Comment 3: Crotch's Bumble Bee

*Recommended MMs #7-11: Crotch's bumble bee MMs-11: Crotch's bumble bee habitat assessment, survey plan, , avoidance or take authorization, avoidance of, avoidance of herbicide application during bloom periods, and compensatory mitigation*

The IS/MND and attached Biological Resources Report (Attachment B to the IS/MND) provides detailed justification for why impacts to the Crotch's bumble bee are considered less than significant, and none of the Recommended MMs, such as habitat assessment, take authorization, preconstruction surveys, or compensatory mitigation, are necessary to reduce impacts to less-than-significant levels under CEQA.

Since 2019, when CDFW designated this species as a candidate for listing under the California Endangered Species Act due to concerns over possible population declines and range contractions, numerous individuals of the species have been detected in the San Francisco Bay area (Bumble Bee Watch 2024, iNaturalist 2024), despite the lack of focused surveys for the species in most areas. These recent observations indicate that the species is still extant and fairly widespread in many locations in the Bay Area.

As discussed in the Biological Resources Report, it is unlikely that large numbers of individuals, if any, occur on the project site due to a lack of abundant floral resources and the widespread but locally scarce distribution of the species. Further, this species' habitats (grassland, scrub, and woodland) are abundant and widespread both in the project vicinity and in surrounding region, and the habitat on the project site is of low quality due to a low abundance of floral resources. Because the Crotch's bumble bee's habitat is widespread and varied, and the 2.64 acres of coyote brush scrub habitat and 3.18 acres of California annual grassland that will be developed by the project represent a very small fraction of the species' regionally-available habitat, the loss of 5.82 acres of low-quality habitat and the potential loss of small numbers of individuals, if any, would not rise to the CEQA standard of a substantial adverse effect on the species or its habitats. Therefore, impacts would be considered less than significant, and none of the Recommended MMs are necessary.

#### Comment 4: Special-Status Plant Species

##### *Recommended MM #12-13: Surveys and Buffers, Compensatory Mitigation and Revegetation*

As described in the Biological Resources Report (Attachment B to the IS/MND), six special-status plant species were determined to have some potential to occur in the project study area, including bent-flowered fiddleneck (*Amsinckia lunaris*), California androsace (*Androsace elongata ssp. acuta*), Diablo helianthella (*Helianthella castanea*), bristly leptosiphon (*Leptosiphon auerus*), Santa Clara red ribbons (*Clarkia concinna ssp. automixa*), and Michael's rein orchid (*Piperia michaelii*). Focused surveys conducted in May 2023, when all of these species would have been detectable in the study area, did not detect any of these species. Therefore, these species are determined to be absent. Because no special-status plants are expected to occur in the project study area, none of the Recommended MMs are necessary.

#### ***Discussion of Public Comments***

As similar topics were brought up by multiple commenters in the emailed comments and/or verbal comments at the public hearing, responses are grouped by topic below. The comment sets that mention that topic are listed in parentheses following the topic and can be found in full included in Attachment 1 in Attachment 1 to this memo.

#### Groundwater (Culver, Busch, Pisani, and Public Hearing)

Commenters discussed the project's potential effects on groundwater and the impact of the project on water availability in the area.

An assessment of potential groundwater drawdown impacts was conducted for the applicant by Balance Hydrologics, Inc. The detailed report is included as Attachment 3 to this document and is summarized below.

The project is estimated to use an average of 671 gallons of water per day, which is an increase of 426 gallons from current use. This increase is similar to the amount of water needed to irrigate a small vineyard (about one-third of an acre). At maximum demand, the project might use around 2,373 gallons per day.

Geologic conditions in the area consist of sandstone, shale, and clay formations that typically yield limited groundwater except where fractured. Pumping tests, water-quality evaluations, and geologic interpretation indicate that the on-site well draws from a localized and distinct groundwater source, separate from neighboring wells, nearby surface waters, and regional groundwater systems.

Because theoretical calculations suggest that use of the project's use of project's well has the potential to influence groundwater levels up to 100–1,000 feet away, several tests were conducted to test this possibility. These tests showed no discernible impact on neighboring wells, as demonstrated in the following summary statements:

- In 2024, more water was pumped from the well on the project site than usual for 30 days and checked with neighbors within 1,000 feet. No one reported any changes to their wells.
- In 2025, a 4-week monitoring test showed that when nearby wells were pumped, the well water level on the project site did not change.

- Water chemistry tests show the groundwater from the project site's well is chemically distinct from nearby wells and streams, supporting the idea that they tap into different water sources due to the complex geology of the area, including faults, folds, and fractured rock layers.

Overall, the analysis indicates that proposed use of the existing well at the expected project demand is unlikely to significantly affect nearby wells or surface water. Additionally, the applicant is committed to indoor water efficiency, with a goal of 35 gallons per day per person or less, while the projected water demand used in the hydrology report was based on 55 gallons per day per person. While a secondary source of water for drought protection may be evaluated in the future, there are no plans for one at this time.

Some commenters also noted groundwater concerns related specifically to the project's septic systems contaminating groundwater, especially when handling waste of 150 people. As stated on page 75 of the IS/MND, the septic tanks would be required to comply with Title 15 of the Alameda County Municipal Code regarding construction and permitting. Classified as an onsite wastewater treatment system (OWTS), the septic tanks and associated leach fields must be built consistent with plans approved by the Alameda County Department of Environmental Health and comply with all requirements in the Alameda County Onsite Wastewater Treatment Systems Manual (Manual) which has been reviewed and approved by the regional water board in accordance with State policy. The provisions in the Manual are "designed to protect public health, groundwater and surface water bodies from contamination, and provide safely operating Onsite Wastewater Systems through proper design, siting, installation, maintenance and monitoring."<sup>1</sup> The project is located in a designated Area of Concern per Alameda County's Local Agency Management Program (LAMP) due to the steep-sided canyon, rocky soils, and steep terrain, and would be required to comply with additional or stricter OWTS-regulations.<sup>2,3</sup> Additionally, as discussed in section 3. Revised Project Description above, portable toilets would be rented for use during events with an attendance of 100 people or more.

#### Project Driveway (Culver, Pisani and Public Hearing)

Commenters discussed the safety of the project's driveway, both in terms of steepness and due to the curvature of Crow Canyon Road.

As described on page 94 of the IS/MND, and in Attachment D to that document, the proposed new project driveway was assessed for adequate sight distance based on criteria in the Highway Design Manual by Caltrans, and was found to meet the requirements. Regarding the steep grade of the proposed driveway, as stated on page 95 of the IS/MND, the proposed driveway would be required to

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<sup>1</sup> Alameda County Department of Environmental Health, June 2018, Onsite Wastewater Treatment Systems Manual, page 1. Available at: <https://deh.acgov.org/landwater-assets/docs/OWTS-Manual.pdf>

<sup>2</sup> County of Alameda Department of Environmental Health, June 2018, Local Agency Management Program for Onsite Wastewater Treatment Systems, Figure 2-4 and Table 2-4. Available at: <https://deh.acgov.org/landwater-assets/docs/OWTS-LAMP.PDF>

<sup>3</sup> County of Alameda Department of Environmental Health, June 2018, Local Agency Management Program for Onsite Wastewater Treatment Systems, page 15. Available at: <https://deh.acgov.org/landwater-assets/docs/OWTS-LAMP.PDF>

have the approval of the Alameda County Fire Department before construction of the driveway could happen, which was still pending at the time of this memorandum.

#### Increased Fire Hazards (Busch, Pisani and Public Hearing)

Commenters discussed the possibility of increased fire risks. As indicated on page 100 of the IS/MND and described in more detail in Attachment E to that document, the initial requirements of the vegetation management plan as outlined in the Wildland Fire Protection Plan, as well as the project's fire resistant landscaping and new code-compliant construction, would reduce the wildfire risks by making the project site less flammable, less ignitable, and less conducive to fire spread compared to current conditions. While the project would increase activity at the project site, the typical activities involved in meditation retreats would not be ones generally associated with substantially increased fire risk.

#### Increased Light and Noise (Culver and Public Hearing)

Commenters discussed that the project may result in additional noise and light pollution. While there may be additional noise during the larger gatherings, these take place during daytime hours on ten days out of the year. With the removal of public tours (see Revised Project Description, above), most events that bring groups of people to the site (Sunday meditation sessions, monthly Eight precepts practice sessions, and the meditation retreats for up to 100 people three days a year) would be for meditation-related activities intended primarily for Fa Yun Chan Temple members, which would not include activities associated with substantially increased noise levels.

As detailed in Mitigation Measure Bio-5, project lighting would be minimized, with exterior lighting consistent with levels recommended for rural and low-density residential areas by the International Dark-Sky Association.

#### Aesthetics and Visibility (Culver and Public Hearing)

Commenters discussed that the project would be visible from the roadway and other properties. As noted on pages 36 and 37 of the IS/MND, the project site frontage along Crow Canyon Road, save for improvements to the driveway entrance, would remain undeveloped wooded hillside. Building 5 would be built upon the same site as an existing building, and would be visible along Crow Canyon Road from the south. Changes to the project design since the comment period for the IS/MND include lowering the roofline of Building 5 by 3.5 feet and changing the roof color of all the buildings to green. Building 1 and the top of one of the Buddha statues would be visible but would remain below higher ridgelines. As discussed in the IS/MND (page 42), the project is not visible from a State Scenic Highway and is generally consistent with Castro Valley General Plan for Measure D canyonlands.

#### Flooding (Culver and Public Hearing)

Commenters discussed the possibility of the project increasing the chances of flooding. The project is not substantially re-grading the project site. As discussed on pages 83 and 84 of the IS/MND, stormwater collection and treatment on the project site would meet requirements of the C.3 provisions as well as the requirements in the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Manual. The C.3 requirements include designing the project site to minimize imperviousness, detain runoff, and infiltrate runoff where feasible; treating runoff prior to discharge from the site; ensuring runoff does not exceed pre-project peaks and durations; and maintaining

treatment facilities. This would reduce the risk of increased stormwater runoff from the project's impervious surfaces.

#### Wildlife (Culver)

One commenter mentioned that the project would have a damaging effect on wildlife. As detailed in the Biological Resources section of the IS/MND (pages 51 to 68), as well as the Biological Resources Report included as Attachment B to the IS/MND, the project would not have a significant impact on endangered animal species or impeded wildlife movement through the project site. Common wildlife species that may inhabit or visit the project site would already be accustomed to periodic human disturbance and impacts were determined to be less than significant.

#### Non-CEQA Topics (All Comment Sets)

Some comments related to project topics outside of the realm of environmental analysis, such as those relating to the density on the project site and its consistency with zoning requirements, a plan to subdivide the parcels, weight restrictions on Crow Canyon Road, and privacy concerns with an adjoining lot. While this memo has been provided by the IS/MND preparer and is therefore focused to environmental considerations, all comments have been provided to County staff and decision makers for their information and consideration.

The project description for environmental review purposes was included on pages 2 through 17 of the IS/MND and subsequent revisions are discussed in section 3 of this document. With respect to comments regarding the zoning of the site, while re-zoning of the site had been previously proposed from Single Family Residential (R1) and Agricultural (A) to a Planned Development (PD) District, however a change to the zoning classification of the site is no longer proposed and is not required.

#### **17.54.160 Conditional uses—Combined applications.**

If the proposed conditional use is one listed in the district regulations as subject to site development review, procedure upon the application shall be subject to the additional requirements of Section 17.54.210 of this chapter. No separate application for site development review is required in such cases, but disapproval of either shall constitute disapproval of the application. Where the proposed conditional use permit is accompanied by a concurrent application for a variance pursuant to Section 17.54.090 the board of zoning adjustments shall act separately on each.

(Ord. 2002-60 (part): Prior gen. code § 8-94.3)