

County of Santa Clara

Department of Planning and Development

County Government Center, East Wing, 7th Floor
 70 West Hedding Street
 San Jose, California 95110
Phone: (408) 299 5700



Notice of Intent to Adopt a Mitigated Negative Declaration

A notice, pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et sec.) that the following project will not have a significant effect on the environment.

File Number	TAZ	APN(s)	Date
PLN20-063	85	712-23-005	1/4/2022
Project Name	Project Type		
626 San Bruno Grading Abatement	Grading Abatement Approval		
Person or Agency Carrying Out Project	Address	Phone Number	
County of Santa Clara	70 W. Hedding, 7 th Floor San Jose, CA 95110	(408) 299 5700	
Name of Applicant	Address	Phone Number	
MH Engineering	16075 Vineyard Blvd Suite B, Morgan Hill, CA 95037	(408) 779 7381	
Project Location			

The subject property, 626 San Bruno (APN: 712-23-005), is located in the rural unincorporated area south of San José, just north of Morgan Hill, within Coyote Valley. The property has a General Plan designation of Agriculture Medium Scale and is zoned Exclusive Agriculture with a 20-acre minimum lot size combining district (A-20ac). The subject property is approximately 10 acres in size and is mostly vacant with an unoccupied single-family residence, unpermitted base rock driveways and parking areas, a small orchard, and an unpermitted berm with palm trees planted in it. The property was previously enrolled within a Williamson Act Contract, which expired in January 2020. The property is surrounded by 10-acre properties to the north and east that are used for commercial agriculture purposes. To the south of the property is a 37-acre property with orchards and open space. Immediately to the west of the property are several single-family residential properties approximately 2 acres in size. Beyond those properties to the west is an 850-acre open space property owned by the Santa Clara Valley Habitat Agency.

The topography of the property is generally flat with an approximate slope of 1.5 percent (1.5%) towards the southeast of the property. Fisher Creek branch is located 450 feet to the south of the property, across San Bruno Avenue. The property consists of Statewide Importance Soils and Prime Farmland Soils according to the California Department of Conservation.

Assembly Bill 948 was adopted into law on September 27, 2019 and codified at sections 35180 to 35186 of the California Public Resources Code. AB 948 recognizes Coyote Valley is a *“unique landscape providing agricultural, wildlife, recreational, climate, and other natural infrastructure benefits and is a resource of statewide significance in need of restoration, conservation, and enhancement.”* In addition, AB 948 requires Coyote Valley to be “acknowledged as an area of statewide significance in local planning documents developed or update don or after January 1, 2020, affecting land use within Coyote Valley.” Coyote Valley is also recognized as a critical corridor for wildlife migrating between the Santa Cruz Mountains and the Diablo Range. Per Section

15300.2(a) of the California Environmental Quality Act (CEQA) grading may not be deemed exempt from environmental review and qualify for a Categorical Exemption if the project

“may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.” As the property is located within the Coyote Valley that is recognized under AB 948 as an environmental resource designated, precisely mapped and adopted pursuant to state law, a Categorical Exemption Section 15303, Class 3, is not applicable for the proposed Grading Abatement Approval.

Project Description

The project is a Grading Abatement Approval application to legalize 2,273 cubic yards of fill and 37 cubic yards of cut to establish a parking lot, driveways, and a 615-foot long/ 3-foot tall berm, which was originally installed while the property was used as an unpermitted Contractor's Facility at 626 San Bruno, Morgan Hill (APN: 712-230-005). The applicant has ceased the unpermitted Contractor's Facility and proposes to use the unpermitted grading to establish a Nursery-Wholesale on their property, as stated in the Grading Abatement Application submitted on June 16, 2020.

By way of background, on February 11, 2019 the property owner was issued a Notice of Violation for the unpermitted use of the site as a *Contractor's Facility*, including the storage of heavy equipment and cargo containers. Pursuant to Zoning Ordinance Section 2.10.040, *Contractors Facilities* are not a permitted use in any Rural Base Districts, such as the subject property (A-20ac: Agriculture Medium Scale).

On March 26, 2019, the property owner was issued a second Notice of Violation for conducting grading and drainage alteration work without obtaining County of Santa Clara (County) grading and drainage permits. In response to the February Violation, the property owner ceased use of the site as a Contractors Facility by April 23, 2019. In response to the March grading violation, the Appellant applied for a Grading Abatement Approval (Grading Abatement) to retroactively allow 2,273 cubic yards of fill and 37 cubic yards of cut to establish a parking lot, driveways, and a 615-foot long/ 3-foot tall berm, which was originally installed while the property was used as an unpermitted Contractor's Facility. However, the applicant proposed to use the unpermitted grading to establish a Nursery-Wholesale use on their property, as stated in the Grading Abatement Application submitted on June 16, 2020.

The Planning Official determined that approval of the unpermitted grading did not meet all of the required Grading Findings, pursuant to Ordinance Code Section C12-433. The Grading Abatement application was denied by the Planning Official on November 30, 2020, as summarized in a Memorandum issued with the denial describing the Planning Official's findings of fact.

PROJECT DESCRIPTION CONTINUED ON ATTACHED PAGE

Purpose of Notice

The purpose of this notice is to inform you that the County Planning Staff has recommended that a Mitigated Negative Declaration be approved for this project. County of Santa Clara Planning Staff has reviewed the Initial Study for the project, and based upon substantial evidence in the record, **finds that although the proposed project could initially have a significant effect on the environment, changes or alterations have been incorporated into the project to avoid or reduce impacts to a point where clearly no significant effects will occur.** The project site is not on a list of hazardous material sites as described by Government Code 65962.5 (Cortese List).

A public hearing for the proposed project is tentatively scheduled for the Planning Commission on January 27, 2022 via virtual [teleconference](#). Where a date is not given, a separate notice will be sent to you informing you of the hearing date. It should be noted that the approval of a Mitigated Negative Declaration does not constitute approval of the project under consideration. The decision to approve or deny the project will be made separately.

Public Review Period: 20 days

Begins: 1/4/2022

Ends: 1/24/2022

Public Comments regarding the correctness, completeness, or adequacy of this negative declaration are invited and must be received on or before the above date. Such comments should be based on specific environmental concerns. Written comments should be addressed to the attention of Joanna Wilk, Associate Planner via email (Joanna.Wilk@pln.sccgov.org), Tel: (408) 299-5799. A file containing additional information on this project may be reviewed at the Planning Office under the

file number appearing at the top of this form. For additional information regarding this project and the Mitigated Negative Declaration, please contact Joanna Wilk at (408) 299-5799 or Joanna.Wilk@pln.sccgov.org

The Mitigated Negative Declaration and Initial Study may be viewed at the following locations:

- (1) Santa Clara County Planning Office, 70 West Hedding Street, East Wing, 7th Floor, San Jose, CA 95110
- (2) Planning & Development website www.sccgov.org/sites/dpd (under “Development Projects” > “Current Projects”)
- (3) Santa Clara County Clerk Recorders Office, <https://clerkrecorder.sccgov.org/ceqa-postings>

Responsible Agencies sent a copy of this document

Santa Clara Valley Open Space Authority
United States Department of Agriculture (USDA) National Resources Conservation Service (NRCS)
Hollister Service Center

Mitigation Measures included in the project to reduce potentially significant impacts to a less than significant level:

- **AG-MIT 1: Subsurface Soil Remediation.** In order to preserve the underlying agricultural soils on site, all imported base rock associated with the Nursery Wholesale use is to be removed once the Nursey operation has ceased. Additionally, the subsurface soils shall be remediated back to agriculturally productive soils (to the extent possible) as determined by a Soil Health Assessment performed by the United States Department of Agriculture (USDA) National Resources Conservation Service (NRCS) Hollister Service Center.

A reporting or monitoring program must be adopted for measures to mitigate significant impacts at the time the Negative Declaration is approved, in accord with the requirements of section 21081.6 of the Public Resources Code.

Prepared by:

Joanna Wilk, Planner

Joanna Wilk

1/4/22

Approved by:

Bharat Singh, Principal Planner

DocuSigned by:
Bharat Singh
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Signature

Date

1/4/2022

Signature

Date

INITIAL STUDY
Environmental Checklist and Evaluation for the County of Santa Clara
626 San Bruno Grading Abatement Approval

Project Description; Continued

On December 10, 2020, the Property Owner (Appellant) appealed the Planning Official's denial of the Grading Abatement on the grounds that the grading is necessary to establish a Nursery – Wholesale use. On May 27, 2021, the appeal was heard at the County Planning Commission and resulted in the Commission declaring their intent to **grant the appeal** and rescind the decision of the Planning Official to deny the Grading Abatement application; and return to the Planning Commission for final action. Additionally, the Planning Commission directed staff to include a Condition of Approval for the property owner to remove the base rock from the property once the nursery operation ceases in order to remediate the underlying agricultural soils.

Subsequently, Planning Staff prepared to bring the Grading Abatement application back to the January 27, 2021 Planning Commission meeting by preparing Conditions of Approval, a Compliance Agreement pursuant to Municipal Code Section C1-71, and Environmental Review as the subject property is located within Coyote Valley (an area of statewide importance pursuant to AB 948).