DOCKETED	
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Project Title:	Walsh Data Center
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Document Title:	Email - Mitigation Measure language
Description:	CEC staff request for agreement by the applicant of mitigation measure language
Filer:	Steve Kerr
Organization:	California Energy Commission
Submitter Role:	Commission Staff
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From:	Payne, Leonidas@Energy
To:	Scott Galati
Subject:	Walsh Mitigation Measure language
Date:	Thursday, January 30, 2020 12:04:00 PM
Attachments:	5.4 Bio Walsh near final draft.pdf MMs for Walsh Bio.docx

Scott:

Before a proposed mitigated negative declaration can be released for public review, California Environmental Quality Act (CEQA) requires that "[r]evisions in the project plans or proposals [are] made by *or agreed to* by the applicant" which avoid or mitigate all potentially significant effects (Cal. Code Regs., tit. 14, 15070(b)(1)). Once CEC staff and the applicant have found consensus on the proposed mitigation measures necessary for the determination of Mitigated Negative Declaration (MND), staff will ensure that the agreed-upon mitigation measures are incorporated into the Initial Study. Staff will publish the MND and Initial Study and submit them to the State Clearinghouse for a 30 day public review period.

In its Initial Study, CEC staff will be including two new mitigation measures in the technical area of Biological Resources (MM BIO-1 and 2) which would supersede the applicant proposed mitigation for Biological Resources included in the Project Description chapter of the application. Staff believes these measures are necessary to address potential impacts to nesting birds. At this time, this is the only technical area where staff believes such mitigation language is necessary. We have attached a near-final draft of the Bio technical section so you can see the mitigation language in context.

With this email, CEC staff seeks the applicant's acceptance of the attached mitigation measures for Biological Resources. We will be docketing this email and the attachments. Please docket your response at your earliest convenience so we can reference your docketed response in our Initial Study. If this mitigation language is not acceptable, we will proceed with noticing a public workshop or phone call to resolve the language and seek agreement.

Leonidas Payne—Project Manager
California Energy Commission

Biological Resources

APMs in Project Description:

The project will incorporate the following measures to reduce impacts to nesting birds.

- If removal of the trees on-site would take place between January and September, a pre-construction survey for nesting raptors will be conducted by a qualified ornithologist to identify active nesting raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys will be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys will be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area to be disturbed by these activities, and the ornithologist shall, in consultation with the State of California, Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet) around the nest until the end of the nesting activity.

- The applicant shall submit a report indicating the result of the survey and any designated buffer zones to the satisfaction of the Director of Planning and Inspection prior to the issuance of a tree removal permit by the City Arborist.

Replace with:

MM BIO-1: Nesting Bird Avoidance and Minimization Measures. If construction, tree removal, or vegetation clearing occurs during the nesting season (February 1 through August 31), an ornithologist or other qualified biologist will conduct pre-construction nest survey(s) no more than 14 days prior to the initiation of the aforementioned activities within 500 feet of trees/vegetation. Surveys will be repeated if project activities are suspended or delayed for more than 14 days during the nesting season. The ornithologist or other qualified biologist (with at least a bachelor's degree in a biological science field and demonstrated field expertise in avian species) will be approved by the city of Santa Clara. The size of all buffer zones will initially be a 250-foot radius around the nest of non-raptors and a 500-foot radius around the nest for raptors. Any changes to a buffer zone must be approved by the city of Santa Clara in consultation with CDFW. The nests and buffers will be field checked weekly by the approved ornithologist or other qualified biologist. The approved buffer zone will be marked in the field with exclusion fencing, within which no construction, tree removal, or vegetation clearing will commence until the ornithologist or other qualified biologist and the city of Santa Clara to verify that the nest(s) are no longer active.

MM BIO-2: Nesting Bird Survey Report. The qualified biologist shall submit a copy of the pre-construction nest survey report(s) to the city of Santa Clara Director of Community Development prior to demolition for review and approval. The report(s) will contain maps showing the location of all nests, species nesting, status of the nest (e.g. incubation of eggs, feeding of young, near fledging), and the buffer size around each nest. The report will be provided within 10 days of completing a pre-construction nest survey.

5.4 Biological Resources

This section describes the environmental and regulatory setting and discusses impacts associated with the construction and operation of the Walsh Data Center (WDC or project) with respect to biological resources that occur in the project area.

BIOLOGICAL RESOURCES Would the project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	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 Wildlife 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, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☒	☐
c. Have a substantial adverse effect on state or federally protected wetlands (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?	☐	☐	☐	☒

Environmental checklist established by CEQA Guidelines, Appendix G.

5.4.1 Setting

The project would occur on a 7.87 acre site in the city of Santa Clara, California. The property is zoned heavy industrial and is currently developed containing a warehouse complex, paved parking, and loading areas. Trees and ornamental landscaping are located along a portion of the Walsh Avenue site boundary as well as the northern and western property boundaries. There are a total of 41 trees, including liquidambar, tree of heaven, iron bark eucalyptus, and one walnut tree, within the site boundaries (Walsh 2019b, Appendix B). The majority of these trees are in poor condition with two in fair condition, however all are not suitable for retention and would be removed and replaced.

The adjacent properties consist of another data center to the north, several buildings to the west and south, and the Union Pacific Railroad right-of-way and rail line is directly to the east. East of the rail line are more buildings. Walsh Avenue is directly to the south of the site. The Norman Y. Mineta San Jose International airport is approximately 900 feet to the east and northeast of the proposed project. Located on the eastern side of the airport is the Guadalupe River, which generally runs from a southeast to a northwest direction and drains into the San Francisco Bay.

Northern coastal salt marsh has been identified as a sensitive natural community (CNDDB 2019) and is located in the San Francisco Bay approximately 5.3 miles northwest of the proposed project. This community supports several special-status species such as California Ridgeway's rail (Federal Endangered, and State Endangered and Fully Protected), saltmarsh common yellowthroat (California Species of Special Concern), Alameda song sparrow (federal Bird of Conservation Concern and California Species of Special Concern), salt marsh wandering shrew (California Species of Special Concern), and salt marsh harvest mouse (Federal Endangered, and State Endangered and Fully Protected).

Regulatory Background

Federal

Endangered Species Act (16 U.S.C., § 1530 et seq., and 50 C.F.R., part 17.1 et seq.). The Endangered Species Act (ESA) designates and provides for protection of threatened and endangered plant and animal species, and their critical habitat. Its purpose is to protect and recover imperiled species and the ecosystems for which they depend. It is administed by the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). The USFWS is responsible for terrestrial and freshwater organisms while NMFS is responsible for marine wildlife such as whales and anadromous fish (salmon). Species may be listed as endangered or threatened. All species of plants and animals, except pest insects, are eligible for listing. Species are defined to include subspecies, varieties, and for vertebrates, distinct population segments. The ESA protects endangered and threatened species and their habitats by prohibiting the "take" of listed animals and the interstate or international trade in listed plants and animals, including their parts and products, except under federal permit. Take of federally listed species as defined in the Endangered Species Act is prohibited without incidental take authorization, which may be obtained through Section 7 consultation (between federal agencies) or a Section 10 Habitat Conservation Plan.

Migratory Bird Treaty Act (16 U.S.C., §§ 703-711). The Migratory Bird Treaty Act (MBTA) makes it illegal to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid federal permit. The USFWS has authority and responsibility for enforcing the MBTA.

Clean Water Act Sections 401 and 404. The Clean Water Act (CWA) (33 U.S.C., §§ 1251–1376) requires the permitting and monitoring of all discharges to surface water bodies. Section 404 (33 U.S.C., § 1344) requires a permit from the United States Army Corps of Engineers (USACE) for a discharge from dredged or fill materials into a water of the United States, including wetlands. Section 401 (33 U.S.C., § 1341) requires a permit from the regional water quality control board for the discharge of pollutants. By federal law, every applicant for a federal permit or license for an activity that may result in a discharge into a California water body, including wetlands, must request state certification that the proposed activity will not violate state and federal water quality standards.

State

California Endangered Species Act (Fish and G. Code, §§ 2050-2098). The California Endangered Species Act (CESA) of 1984 states that all native species of fish, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threated or endangered designation, will be protected and preserved. CESA prohibits the take of any species of wildlife designated by the California Fish and Game Commission as endangered, threatened, or candidate species. The California Department

of Fish and Wildlife (CDFW) may authorize the take of any such species if certain conditions are met. These criteria are listed in Title 14 of the California Code of Regulations, section 783.4 subdivisions (a) and (b). For purposes of CESA "take" means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill (Fish and G. Code, § 86).

California Fish and Game Code Section 3503. This section makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto.

California Fish and Game Code Section 3503.5. This section makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes and Strigiformes or to take, possess, or destroy the nest or eggs of any such bird.

California Fish and Game Code Section 3513. This section protects California's migratory birds by making it unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act or any part of such migratory nongame birds.

The administering agency for the Fish and Game Code sections discussed above is CDFW.

Local

City of Santa Clara 2010 – 2035 General Plan. Goals and policies specific to the city of Santa Clara General Plan to protect and preserve the city's natural habitat and wildlife are described in Chapter 5 Goals and Policies, Section 10 Environmental Quality. These policies that are important with respect to the proposed project are as follows:

- 5.3.1-P10 Provide opportunities for increased landscaping and trees in the community, including
- requirements for new development to provide street trees and a minimum 2:1 on- or off-site
- replacement for trees removed as part of the proposal to help increase the urban forest and
- minimize the heat island effect.
- 5.10.1-G1 The protection of fish, wildlife and their habitats, including rare and endangered species.
- 5.10.1-P4 Protect all healthy cedars, redwoods, oaks, olives, bay laurel and pepper trees of any size, and all other trees over 36 inches in circumference measured from 48 inches above-grade on private and public property as well as in the public right-of-way.
- 5.10.1-P11 Require use of native plants and wildlife-compatible non-native plants, when feasible, for
- landscaping on city property.
- 5.10.1-P12 Encourage property owners and landscapers to use native plants and wildlife-compatible nonnative plants, when feasible.

Santa Clara City Code Chapter 12.35 Section 020. This section of the Santa Clara City Code specifies how to proceed with certain issues with trees and shrubs growing in the streets or public places. This includes the removal, alteration, misuse of trees and trees hazardous to public safety. Special authorization for removal or alteration is required.

5.4.2 Environmental Impacts and Mitigation Measures

Applicant Proposed Measures

The applicant proposes to implement the following design measures (Applicant Proposed Measures or APMs) as part of the project (Walsh 2019a, Section 4.4, page 4 and 5).

APM BIO-1: If removal of the trees on-site would take place between January and September, a pre-construction survey for nesting raptors will be conducted by a qualified ornithologist to identify active nesting raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys will be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys will be conducted no more than 30 days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area to be disturbed by these activities, and the ornithologist shall, in consultation with the State of California Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet) around the nest until the end of the nesting activity.

APM BIO-2: The applicant shall submit a report indicating the result of the survey and any designated buffer zones to the satisfaction of the Director of Planning and Inspection prior to the issuance of a tree removal permit by the City Arborist.

a. Would the project 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 Wildlife or U.S. Fish and Wildlife Service?

The proposed project site is on developed land consisting of a warehouse complex, paved parking, and loading areas. The area adjacent and surrounding the site is also developed consisting of buildings, roads, parking lots, and a railroad line. Several (41) ornamental trees (liquidamber, tree of heaven, iron bark eucalyptus, and a walnut) are present and would be removed due to their poor condition. Protected migratory avian species could possibly use the trees and shrubs for nesting.

Construction

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED. The proposed project requires the removal of 41 trees that provide habitat for nesting birds protected under the Migratory Bird Treaty Act (MBTA) and Fish and Game codes. Construction activities could disturb nesting and breeding birds in trees and shrubs on the proposed project site during the breeding season of February 1 through August 31. Potential impacts to migratory birds that could result from the contruction activities and tree removal at the proposed project include the destruction of eggs or occupied nests, mortality of young, and the abandonment of nests with eggs or young birds prior to fledging. These impacts would be significant should they occur.

In the SPPE application, the applicant proposed project design measures requiring pre-construction raptor surveys if the trees would be removed during the breeding season. This includes an ornithologist to inspect all trees in and adjacent to the construction area. In addition, if nests are found the ornithologist would consult with CDFW to determine the appropriate buffer zone around the nest. A report would be provided of the results of the pre-construction survey.

These applicant proposed measures (**APM BIO-1** and **APM BIO-2**) would not reduce potential impacts to less than significant. Conducting only raptor nest surveys does not protect all bird species under the MBTA and Fish and Game codes. In addition, some birds can complete a nest within 14 days, therefore 30 days is too long a time frame and would allow a bird to build a nest and lay eggs after a survey has been conducted and before tree removal or construction activity begins. While an ornithologist has the necessary avian experience, not all biologists conducting bird surveys are ornithologists, so a qualified biologist is included. While buffers have been mentioned there are no details of what is used to protect the nests from construction and other activities. Also, there are no details of what will be provided in the report and when it would be provided. The report is required to be sumitted for review and approval by the city of Santa Clara planning department prior to demolition (Fernandez, pers. comm, 2019). Due to these reasons the applicant-proposed measures would not protect nesting birds in the trees and shrubs prior to tree removal or reduce potential impacts to nesting birds to less than significant.

Implentation of **Mitigation Measures (MM) BIO-1** and **MM BIO-2**, discussed below and agreed to by the project applicant (Walsh 2020a) would reduce potential impacts to nesting birds resulting from implementation of the proposed project. Impacts would be less than significant with mitigation incorporated.

MM BIO-1: Nesting Bird Avoidance and Minimization Measures. If construction, tree removal, or vegetation clearing occurs during the nesting season (February 1 through August 31), an ornithologist or other qualified biologist will conduct pre-construction nest survey(s) no more than 14 days prior to the initiation of the aforementioned activities within 500 feet of trees/vegetation. Surveys will be repeated if project activities are suspended or delayed for more than 14 days during the nesting season. The ornithologist or other qualified biologist (with at least a bachelor's degree in a biological science field and demonstrated field expertise in avian species) will be approved by the city of Santa Clara. The size of all buffer zones will initially be a 250-foot radius around the nest of non-raptors and a 500-foot radius around the nest for raptors. Any changes to a buffer zone must be approved by the city of Santa Clara in consultation with CDFW. The nests and buffers will be field checked weekly by the approved ornithologist or other qualified biologist. The approved buffer zone will be marked in the field with exclusion fencing, within which no construction, tree removal, or vegetation clearing will commence until the ornithologist or other qualified biologist and the city of Santa Clara to verify that the nest(s) are no longer active.

MM BIO-2: Nesting Bird Survey Report. The qualified biologist shall submit a copy of the pre-construction nest survey report(s) to the city of Santa Clara Director of Community Development prior to demolition for review and approval. The report(s) will contain maps showing the location of all nests, species nesting, status of the nest (e.g. incubation of eggs, feeding of young, near fledging), and the buffer size around each nest. The report will be provided within 10 days of completing a pre-construction nest survey.

Operation and Maintenance

LESS THAN SIGNIFICANT IMPACT. Operation of the project's backup diesel generators would result in emissions of oxides of nitrogen (NOx). Nitrogen deposition is the input of NO_X and other pollutants including ammonia (NH_3) and nitric acid (HNO_3), from the atmosphere to the biosphere. Vehicle and industrial emission sources are contributers of NH_3 and HNO_3 along with NO_X. Increased nitrogen deposition in nitrogen poor habitat allows the proliferation of non-native species that crowd out the native species. One approach for quantifying nitrogen deposition is through "critical load." Critical

load is defined as the input of a pollutant below which no detrimental ecological effects occur over the long-term.

Several special-status species (California Ridgway's rail, salt marsh common yellowthroat, Alameda song sparrow , salt-marsh wandering shrew, and salt-marsh harvest mouse) occur in northern coastal salt marsh habitat within a 6-mile radius of the project site. Northen coastal salt marsh is considered a sensitive natural community by the California Department of Fish and Wildlife's California Natural Diversity Database (CNDDB 2019).

Salt marsh habitat has a high tolerance of nitrogen input because of its open nutrient cycle (Pardo et. al. 2011, pg 3071). Critical load has been estimated to be in the range of 30-40 kilogram of nitrogen per hectare per year (kg N/ha/yr) for early successional salt marsh (Bobbink et. al. 2002, pg 96; Bobbink et. al. 2010, pg 47), and 50-100 kg N/ha/yr for intertidal wetlands and 63-400 kg N/ha/yr for intertial salt marshes (Pardo et. al. 2011, pg 3059).

According to the most currently available data, background nitrogen deposition at the northern coastal salt marsh for 2011 is estimated to be 7.6 kg N/ha/yr (EnviroAtlas 2019) and for 2012 at 11.4 kg N/ha/yr (CMAQ 2019). Staff acquired shape files for Community Multiscale Air Quality (CMAQ) modeling-predicted values of annual total deposition and used data from 2012. From the data, staff used the most conservative values to determine impacts to biological resources.

Conservative modeling using AERMOD, performed by Energy Commission staff for similar facilities in Santa Clara (Vantage Data Center at 651 Matthew Street, SC-1 Data Center at 555 Reed Street, and Laurelwood Data Center at 2201 Laurelwood Drive) at comparable distances (approximately 5.5 miles) from salt marsh habitat, yielded estimated levels of nitrogen deposition of between 0.01 and 0.09 kg N/ha/yr. Nitrogen deposition attributed to the project combined with the background nitrogen values discussed above would be substantially below critical load for salt-marsh habitats. Thus, nitrogen deposition from the project would have a less than significant impact on the habitat of special-status species (California Ridgway's rail, salt marsh common yellowthroat, Alameda song sparrow, salt-marsh wandering shrew, and salt-marsh harvest mouse).

Required Mitigation Measures: **MM BIO-1** and **MM BIO-2**

b. ***Would the project 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 Wildlife or U.S. Fish and Wildlife Service?***

Construction

LESS THAN SIGNIFICANT IMPACT. There are no riparian habitats or other sensitive natural communities within or adjacent to the proposed project. The closest riparian habitats to the project are the Guadalupe River, which is located approximately 0.72 mile to the northeast, and the San Tomas Aquino Creek, which is located approximately 1.15 miles to the east. On-site adherence to discharge requirements for the control of solids and pollutants leaving the construction area, as required in the local National Pollution Discharge Elimination System (NPDES) Permit, would ensure that impacts to natural waterways in riparian habitat are avoided. This includes a Storm Water Pollution Prevention Plan and storm water quality best management practices such as directing runoff into bioswales and replacing a portion of the existing paved parking area with pervious pavement.

Operation and Maintenance

LESS THAN SIGNIFICANT IMPACT. The implementation of the NPDES requires Low Impact Development-based storm water treatment controls to treat post-construction storm water runoff intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using storm water as a resource. It also requires proper installation, operation, and maintenance of storm water treatment measures. Impacts from operation and maintenance of the project would be less than those anticipated during contruction for storm water.

Northern coastal salt marsh is the only sensitive natural community, within 6 miles of the project, known to be sensitive to nitrogen deposition. As stated above, salt marsh habitat has a high tolerance of nitrogen input because of its open nutrient cycle (Pardo et. al. 2011, pg 3071) and thus higher critical load in the range of 30-40 kg N/ha/yr (Bobbink et. al. 2002, pg 96; Bobbink et. al. 2010, pg 47) for early successional salt marsh, and 50-100 kg N/ha/yr for intertidal wetlands and 63-400 kg N/ha/yr for intertial salt marshes (Pardo et. al. 2011, pg 3059). Current background nitrogen deposition at the northern coastal salt marsh for 2012 is estimated to be 11.4 kg N/ha/yr (CMAQ 2019). Since the nitrogen deposition attributed to the project combined with the background nitrogen would be considerably less than the lowermost critical load of 30-40 kg N/ha/yr for salt marsh, impacts from nitrogen deposition would be less than significant for this sensitive natural community.

Required Mitigation Measures: None

c. ***Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?***

Construction/Operation and Maintenance

NO IMPACT. There are no state or federally protected wetlands within or adjacent to the proposed project. Construction and operation would occur on a developed site, therefore there would be no impact to state or federally protected wetlands.

d. Would the project 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 wildlife nursery sites?

Construction/Operation and Maintenance

NO IMPACT. The proposed project would not occur in a wildlife movement corridor. It would have no impact on the movement of native resident or migratory fish or wildlife species. The Guadalupe River corridor, located approximately 0.72 mile northeast of the proposed project, is the closest area where movement or migration of native resident wildlife species would occur.

e. Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Construction/Operation and Maintenance

LESS THAN SIGNIFICANT. A certified arborist conducted a survey and provided a report (Walsh 2019b, Appendix B) of the trees on the proposed project site. All 41 trees, which include 17 liquidamber, 21

tree of heaven, and two eucalyptus trees (all non-native) and one walnut tree (most likely a cultivar species), are proposed for removal because of poor health. None of the trees have a diameter greater than 36 inches at 48 inches above grade. New landscaping would be installed around the perimeter of the site, along the street frontage, and near the building. The landscape plan (Walsh 2019a, Figure 2-5) includes a variety of tree, shrub, perennial, grass, and vine species. Many of these are native or native hybrid species. General Plan Policy 5.3.1-P10 requires all new development to include new street trees and at least a 2:1 on or off-site replacement for removal of existing trees. Eighty-two trees would be planted as part of the proposed project. In addition, the project is consistent with General Plan Policy 5.10.1-P12, which requires the incorporation of native and non-native wildlife friendly plants. The removal of trees requires a permit from the superintendent of streets. The proposed project is consistent with General Plan policies 5.3.1-P10 and 5.10.1-P12 for tree removal and replacement and thus would not conflict with local policies or ordinances protecting biological resources.

Required Mitigation Measures: None

f. Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Communities Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Construction/Operation and Maintenance

NO IMPACT. The Santa Clara Valley Habitat Plan (SCVHP 2012) provides for the protection and recovery of resouces over a 519,000-acre study area encompassing the majority of land in Santa Clara County. While there is an adopted Habitat Conservation Plan, the proposed project is not within the permiting area of this plan. Therefore the proposed project is not subject to any local, regional, or state habitat conservation plans.

5.4.3 References

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