Coyote Highlands Cluster Subdivision

Final Environmental Impact Report

SCH#: 2012022008

February 2013

County of Santa Clara
Department of Planning and Development
Planning Office

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APPENDIX A – Geoconsultants, Incorporated; Preliminary Hydrogeologic Evaluation from Ground-Water Extraction; June 21, 2012
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INTRODUCTION

The County of Santa Clara (County) as the lead agency, has prepared this document to be part of the Final Environmental Impact Report (Final EIR) for the proposed Coyote Highlands Cluster Subdivision. This document responds to the comments received during the public review period on the contents of the Draft Environmental Impact Report (Draft EIR). It contains a list of the comments received on the Draft EIR; and responses to significant environmental points raised in those comments, as required by the California Environmental Quality Act (CEQA) (Public Resource Code §§21000 et seq.) and the State CEQA Guidelines (Title 14, California code of Regulations, §§15000 et seq.). In accordance with Section 15132 of the State CEQA Guidelines, this document and the Draft EIR together constitute the Final EIR.

This Final Environmental Impact Report (FEIR) is an informational document intended to disclose to the public and decision-makers the environmental consequences of implementing the Coyote Highland master-planned cluster residential subdivision (project) within Santa Clara County (County) as submitted by Coyote Highlands, LLC (applicant). The project includes a proposed 25-lot cluster subdivision tentative map.

The project is for a cluster subdivision of 25 residential parcels and five (5) open space parcels of approximately 567 acres. The project also includes construction of a roadway connecting to existing County roads on Maple Ave., extension of utilities to the residential lots, construction of a storm water drainage system, and construction of recreational and habitat features. Estimated grading quantities are 19,343 cubic yards of cut and 3,834 cubic yards of fill for road improvements and landslide repair. There will be 49,217 cubic yards of cut and 14,944 cubic yards of fill used for development of future residences.

The project is situated in the foothills of the Diablo Range, east of the City of Morgan Hill. The project area is located east of Carey Lane and Maple Avenue, within the unincorporated lands of County of Santa Clara.
Figure 2.2-2: Roadways in the Project Vicinity

Legend:
- Proposed Subdivision Area Boundary

Source: ESRI 2012 and Panorama Environmental, Inc. 2012

Scale: 1:40,000
Figure 2.2-3: Subdivision Map

LEGEND
- Proposed Subdivision Area Boundary
- Open Space Boundary
- Lot Area Boundary
- Proposed Roadway
SUMMARY OF THE DRAFT EIR CONCLUSIONS

The following is a brief summary of the project impacts and mitigation measures in the Draft EIR. Please refer to the Draft EIR for detail discussions for the existing setting, impacts and mitigation measures.

The project would not result in impacts to the following resources, as discussed in the text of the Draft EIR:

- Mineral Resources

The project would result in less than significant impacts to the following resources, as discussed in the text of the Draft EIR:

- Agricultural and Forestry Resources
- Greenhouse Gas Emissions
- Land Use, Planning, and Recreation
- Population and Housing
- Transportation and Traffic
- Energy Conservation

The project would result in less than significant impacts with the incorporation of the identified mitigation to the following resources, as discussed in the Draft EIR:

- Aesthetics and Visual Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise
- Public Services
- Utilities and Service Systems

The project would not result in any significant and unavoidable impacts.
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This document is being made available to the public agencies and members of the public that commented on the Draft EIR, and will be made available on the County’s website upon completion. As required by Section 15088(b) of the State CEQA Guidelines, the County is providing public agencies that commented on the Draft EIR at least 10 days to review proposed responses prior to the first consideration of the Final EIR by the County.

The County Architectural and Site Approval Committee will review the Final EIR and subdivision on February 14th and make a recommendation to the Planning Commission. The Planning Commission will review the Final EIR and project and make a recommendation to the County Board of Supervisors who is the decision making body for the project, and must certify the Final EIR before a decision to approve the project.

If the County Board of Supervisors certifies the Final EIR, it will make findings that (1) the Final EIR has been completed in compliance with CEQA, (2) the County Board of Supervisors has reviewed and considered the information in the Final EIR, and (3) the Final EIR reflects the County’s independent judgment and analysis. After certification, the County Board of Supervisors may consider whether to approve the proposed tentative subdivision map, approve it with conditions, or deny the tentative subdivision map in accordance with Section 15092 of the State CEQA Guidelines.

If the County approves the proposed tentative subdivision, it will be required to make findings regarding the disposition of each significant environmental impact, including whether feasible mitigation measures or alternatives are available to substantially reduce or avoid these effects (CEQA Guidelines Section 15091). The County would, upon taking an approval action, then file a notice of determination with the County Clerk and the California Governor’s Office of Planning and Research, as directed by Section 15094 of the State CEQA Guidelines.

All documents referenced are available for public review at the Santa Clara County Planning Office located at 70 West Hedding Street, 7th Floor, East Wing, San Jose, CA 95110 on weekdays during normal business hours. The Final EIR will be posted on the County Planning Office website under Environmental Documents at: www.sccplanning.org
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COMMENTS
AND
RESPONSES TO COMMENTS
January 2, 2013
3225 Oakwood Ct
Morgan Hill, CA  95037

Mr. Mark Connolly and
Planning Commission of Santa Clara County
70 West Hedding St
San Jose, CA 95110-1705

Gentlemen:

This is in regard to how the Coyote Highlands Subdivision will impact the environment in the Jackson Oaks area of Morgan Hill. There must not be any connection, any “emergency vehicle” access to Oak Canyon Drive. Once access is allowed, during construction heavy vehicles will use Dunne Ave, Jackson Oaks Dr., and Oak Canyon Dr for their convenience. After completion, the new home owners will find going through Jackson Oaks a short cut.

Our own traffic is heavy, our hillside roads narrow and already difficult to maintain and there are no sidewalks. Our people walk on these roads with children and pets. Our environment will suffer for the ease of Coyote Highlands. This Open Space and planned Subdivision must build and maintain its own hillside emergency roads.

Thank you for your consideration and concern.

[Signature]

Patrick and Liega Arnett

Copy of letter to Morgan Hill City Council
The project includes the construction of the primary roadway that would extend Maple Avenue from its current terminus at the intersection with Paso Robles Avenue, and terminate at Oak Canyon Drive. The terminus of the new primary roadway at Oak Canyon Drive would not allow for regular through traffic. It would only be used for emergency vehicle access and emergency ingress and egress in the case of a fire, earthquake, or other event for the project subdivision residents and the existing 1,500 residences on East Dunn Avenue corridor to the north. For further information, please refer to the project description proposed roadways, located in the Draft Environmental Impact Report, page 2-10.
9 January, 2013

To: Mark Conolly, Planner, Santa Clara County Dept. Planning & Development
CC: Rob Eastwood, Principal Planner
From: Collier Buffington
RE: 3009-74-36-10EIR Coyote Highlands Drat Environmental Impact Report

This memorandum is a formal comment on the Coyote Highlands Draft Environmental Impact Report, dated November 2012, submitted on behalf of the Applicant, Coyote Highlands LLC.

This comment specifically addresses Mitigation Measure Aesthetics-3 on page 3.1-30, which reads in part:

Mitigation Measure Aesthetics-3: To avoid visual impacts from residential structures protruding above the perceived ridgeline, the future residence developer shall develop vegetative screening plans prepared by a licensed Landscape Architect. These plans shall include planting and irrigation plans and specifications. Plans shall be submitted to County of Santa Clara for review and acceptance prior to building permit issuance for construction.

Applicant agrees that visual mitigation of the project’s infrastructure and individual homesites is a requirement under the General Plan and the Zoning Ordinance and is prepared to undertake the required mitigations under the policies and procedures set forth in § 3.20.040 of the Zoning Ordinance.

As drafted, however, the complete text of Mitigation Measure Aesthetics-3 contains a level of implementation detail inconsistent with County policies and in conflict with the Zoning Ordinance. Many of these details are considered inefficient, ineffective and impractical by the landscape architecture and land planning professions.

The design of appropriate mitigation measures for each project improvement will be individually publicly reviewed and approved under the County design review process.

Mitigation Measure Aesthetics-3 should therefore be revised to be consistent the General Plan and Zoning Ordinance.
This comment discusses the mitigation measures listed in the EIR for potentially significant Aesthetic Impacts. The comment states that the specific requirements of the mitigation measure are inconsistent with County policies and the Zoning Ordinance and ineffective and impractical.

The Draft Environmental Impact Report evaluates potentially significant aesthetics impacts that could result from construction of the subdivision and concludes that the subdivision could result in potentially significant aesthetic impacts. Specifically, the EIR concludes that build out of future homes on the residential lots in the subdivision could result in significant aesthetic impacts from public viewsheds, including those from the Santa Clara Valley floor and from existing trails at Harvey Bear Ranch County Park. In order to mitigate these potentially significant visual impacts, the EIR identifies Mitigation Measure #3, which requires that landscaping be installed in association with the development of future residences. Mitigation Measure #3, as worded in the Draft EIR, contains several specific performance measures and implementation requirements.

The County recognizes that several of the specific implementation details listed under Mitigation Measure #3 may present practical challenges. Thus, in order to ensure that the mitigation measure can be feasibly accomplished, the changes have been made to allow the mitigation measure to be consistent with County policies (see Revisions to the Draft EIR). The modification of these mitigation measures will allow future landscaping to be installed in a more practical manner. Modifications of this mitigation measure does not minimize the effectiveness of the mitigation measure in ensuring that, after implementation, the project will not have a significant impact on the environment.

**Mitigation Measure Aesthetics-3:** To avoid visual impacts from residential structures protruding above the perceived ridgeline, the future residence developer shall develop vegetative screening plans, prepared by a licensed Landscape Architect, shall be installed for future residences. These Future Landscape plans shall include planting and irrigation plans and specifications. Plans and shall be submitted to County of Santa Clara for review and acceptance approval prior to building permit issuance for construction. The specific visual design goals of the plans will be to:

1. (a) Screen views to Homesite from adjacent residences to the project area.
2. (b) Screen views to Homesite from Coyote Lake-Harvey Bear Ranch County Park through selective planting of native species along the eastern and southern boundaries of the project area.
3. (c) Provide a visual backdrop (such as taller trees or hedge rows) to any building site as seen from the Santa Clara Valley floor where the
allowable structure height limit would extend above existing ridgelines to avoid the skylining effect of structures.

All plants shall be watered for a minimum of 3 years from time of planting and until such time as the plants are established and can survive without additional watering. The tree species included in the applicant’s proposed Design Guidelines that could be used to provide vegetative screening shall be consistent with the County’s Integrated Landscape Guidelines—include, but are not limited to, the following:-

**Homesite Zone**
- Fan-Tex Ash (Fraxinus velutina 'Fan Tex')
- Hinds' Black Walnut (Juglans californica hindsii)
- Chinese Pistache (Pistacia chinensis)
- London Plane Tree (Platanus x acerifolia 'Columbia')
- California Sycamore (Platanus racemosa)
- Coast Live Oak (Quercus agrifolia)

**Transition Zone, Natural Lands Zone, and Open Space Lots**
- California Sycamore (Platanus racemosa)
- Coast Live Oak (Quercus agrifolia)
- Valley Oak (Quercus lobata)
- Ceanothus (Ceanothus spp.)
- California Buckeye (Aesculus californica)
- Coyote Brush (Baccharis pilularis)

To help ensure the backdrop effects of plantings are effective when the residential construction takes place, the planting and irrigation plans shall be implemented concurrently with construction. Planted areas shall be protected during all construction activities.
9 January, 2013

To: Mark Conolly, Planner, Santa Clara County Dept. Planning & Development
CC: Rob Eastwood, Principal Planner
From: Collier Buffington
RE: 3009-74-36-10EIR Coyote Highlands Drat Environmental Impact Report

This memorandum is a formal comment on the Coyote Highlands Draft Environmental Impact Report, dated November 2012, submitted on behalf of the Applicant, Coyote Highlands LLC.

This comment specifically addresses Mitigation Measure Biology 7 and Mitigation Measure Biology 8.

The language in the captioned mitigation measures should be amended to read "designated construction personnel" and "designated project contact" rather than "dedicated construction personnel" and "dedicated project contact", respectively.

We believe the original language to be a typographical error and the requested revision reflects the author’s true intent consistent with standard practices of the construction industry.
The Applicant’s comment clarifies that project construction personnel would be designated to comply with the requirements of Mitigation Measure Biology-7 and Mitigation Measure Biology-8. Thus, the following mitigation measures will be changed to reflect this new text:

**Mitigation Measure – Bio 7**
A qualified biologist shall be present during all vegetation removal, grading, and other construction activities performed in suitable habitat for CTS and CRLF. The biologist shall conduct surveys of the work area during the rainy season (between October 15 and April 15), and following rain events, prior to the initiation of work each day and shall be present during construction activities to remove any CTS or CRLF that disperse into the impact area. The biologist shall also help to ensure that work is confined to predetermined construction areas through monitoring. During the dry season (roughly April 15 to October 15), dedicated construction personnel trained by the qualified biologist can perform this monitoring function after all clearing and grubbing has been performed and the construction site has been surrounded by exclusion fencing.

**Mitigation Measure – Bio 8**
If a CTS or CRLF (or any amphibian that personnel think may be of one of these species) is encountered during project activities, the following protocol shall be implemented:

(a) All work that could result in direct injury, disturbance, or harassment of the individual animal shall immediately cease.

(b) A dedicated project contact (e.g., a supervisor) shall be immediately notified.

(c) The designated project contact shall immediately notify USFWS and CDFG.

(d) A qualified biologist approved by USFWS and CDFG to handle the individual CTS or CRLF shall move the individual to a safe location nearby.
9 January, 2013

To: Mark Conolly, Planner, Santa Clara County Dept. Planning & Development
CC: Rob Eastwood, Principal Planner
From: Collier Buffington
RE: 3009-74-36-10EIR Coyote Highlands Draft Environmental Impact Report

*********************************************************************
This memorandum is a formal comment on the Coyote Highlands Draft
Environmental Impact Report, dated November 2012, submitted on behalf of the
Applicant, Coyote Highlands LLC.

This comment specifically addresses Section 3.10.4 of the Land Use, Planning and
Recreation Chapter.

Commencing on page 3.10-14, the section addresses potential land use impacts of
the project and finds the following:

The project would not significantly 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, or zoning
ordinance) adopted for the purpose of avoiding or mitigating an
environmental effect. (Less than significant impact)

The finding of no significant impact notwithstanding, Page 3.10-15 contains the
following language:

"The proposed alignment for a segment of Regional Trail Route R5, also
known as the Bay Area Ridge Trail, is located on the adjacent parcel near
several of the project elements, including two wells, dual water tanks,
underground pipelines, access roads, and the temporary soil storage area.
The construction of these facilities and associated easement dedication to
serve the subdivision could impact the completion of this segment of the
Bay Area Ridge Trail. To ensure the construction of the facilities and
associated easement dedication would not impair the ability to complete
this trail segment, the County would require as a condition of the project’s
approval that both the language of required utility easement and the
location of the improvements do not prohibit future trail dedication and
construction."

The above captioned paragraph addresses a matter not subject to CEQA and
therefore must be removed from the Environmental Impact Report.
This comment references discussion under Section 3.10.4 regarding potential land use impacts of the proposed project. A portion of this discussion (page 3.10-15) describes the proposed alignment of the Bay Area Ridge Trail on property that abuts the subdivision, and describes the potential for a conflict between future utilities (wells, water tanks, easements) associated with the Subdivision and the trail alignment. The EIR discussion states that Conditions of Approval for the project will require that the proposed utilities and utility easements do not impair the ability to complete the future Bay Area Ridge Trail. This discussion and referenced condition do not serve as mitigation measures for any significant impacts but only reference conditions of approval that will be proposed as part of subdivision approval.

The comment states that this subject matter is not subject to CEQA and must be removed from the Environmental Impact Report. While the commenter is correct that the discussion does not concern environmental impacts from the project, there is no prohibition under CEQA regarding the discussion of other information and matters pertinent to a proposed project. It will be the decision of the Board of Supervisors, the approval authority for the cluster subdivision, regarding conditions of approval for the project, including the referenced condition regarding the proposed utilities and the Bay Area Ridge Trail Alignment.
Dear Mark:

We have reviewed the DEIR for the proposed 25 lot residential Coyote Highlands subdivision. We note that it concludes that the project will not result in any potentially significant, unmitigable impacts. The DEIR states that the primary entrance to the project is from Carey Lane, at the east end of Maple Avenue. That Oak Canyon Drive terminates at the northeastern boundary of the project. The DEIR states that both construction and post-construction residential traffic would result in a minor increase in traffic on area roadways. The projected increase in Average Daily Traffic (ADT) is 239 daily trips, with 19 project generated AM peak hour trips, and 25 PM peak hour trips. That both Maple Avenue and the intersection of Maple and Foothill Avenues would continue to operate at Level of Service (LOS) A. The residential development would generate limited new traffic, not result in a significant increase in congestion, worsen LOS, deteriorate roadways or create safety hazards. That the capacity of Maple Ave. is 2,500 vehicles, and current ADT is 538 on Maple, supporting the DEIR conclusion of no significant traffic impacts. Construction traffic is also discussed in terms of trips and hours of operation being spread over 12 hours, and therefore not significantly impacting peak hour traffic.

The DEIR also states that while the proposed extension of Maple Avenue would connect with the current terminus of Oak Canyon Drive, it would be gated at that terminus for emergency access only. Therefore, our understanding is that normal daily residential traffic, and construction traffic would not access the site via Oak Canyon Drive.

Based on the contents of the DEIR as mentioned above, the conclusions of the DEIR also mentioned above appear to be supported by the analysis that was done.

We have received a copy of a DEIR comment letter addressed to you from Oakwood Court residents Patrick and Liega Arnett. We look forward to your response to their important comments. Please copy us on any other correspondence that you receive from Morgan Hill residents.

Please let me know if you have any questions or comments.

Mitch Oshinsky, AICP
City of Morgan Hill
moshinsky@morganhill.ca.gov
5-1 The project includes the construction of the primary roadway that would extend Maple Avenue from its current terminus at the intersection with Paso Robles Avenue, and terminate at Oak Canyon Drive. The terminus of the new primary roadway at Oak Canyon Drive would not allow for regular through traffic. It would only be used for emergency vehicle access and emergency ingress and egress in the case of a fire, earthquake, or other event for the project subdivision residents and the existing 1,500 residences on East Dunn Avenue corridor to the north. For further information, please refer to the project description proposed roadways, located in the Draft Environmental Impact Report, page 2-10.
Wednesday, January 16, 2013

Mark J. Connolly
Santa Clara County Planning Office
County Government Center
70 W. Hedding Street
7th Floor, East Wing
San Jose, CA 95110

Re: Draft Environmental Impact Report for the Coyote Highlands Cluster Subdivision

Dear Mr. Connolly,

Thank you for the opportunity to comment on behalf of the Committee for Green Foothills on the Draft Environmental Impact Report (DEIR) for the Coyote Highlands Cluster Subdivision. The master-planned subdivision would include 25 residential lots spanning two properties totaling approximately 566.85 acres. Almost 364 acres of the project area would be placed into an open space or conservation easement and deeded to an independent land trust to maintain in perpetuity.

Deferred Analysis

Appendix G of the CEQA Guidelines requires a determination as to whether a project conflicts with land use policies. General Plan policy R-RC 9 calls for development in rural unincorporated areas to demonstrate adequate quantity and quality of water supply prior to receiving development approval. The project proposes constructing 5 wells to serve as the subdivision’s water supply. The proposed wells are located in two groundwater basins – Llagas and Coyote. Two of the five wells - ETS-11 and ETS-18 - are located within County Landslide Hazard Zones and two – ETS-5 and ETS-7 – are adjacent to such a zone.

However, section 3.6 Geology and Soils of the EIR states that none of the proposed well locations were investigated by BAGG during its 2010 geotechnical investigation. Although the availability of groundwater within the project area was evaluated, a water supply assessment
for the proposed wells as called for in Schaaf & Wheeler’s *Hydrology and Water Quality Review* of May 2012 appears to have not been conducted.

Due to the geotechnical difficulties of the properties (Coyote Highlands, LLC and Morgan Hill Partners, LLC), geotechnical well site specific studies as well as a water supply assessment for the wells in both groundwater basins need to be completed for adequate environmental impact analysis. It must first be determined that the water can safely be accessed and that the quality of that water meets drinking water standards. *Section 3.9 Hydrology and Water Quality* states that the ‘quality of the water at the location of the proposed wells is currently unknown and may not meet drinking water standards due to current and historical grazing use of the area.’ The EIR claims that this can be mitigated to a less than significant level by testing the water in these wells to ensure that they meet applicable water quality standards. The County needs to clearly explain how testing alone can change the quality of drinking water in a well.

*Section 3.6 Geology and Soils* states that the ‘County’s review and permitting process for wells would ensure that wells would not be located on areas of landslide hazard, and would ensure that impacts of landslide hazards on wells would be less than significant.’ Since 4 of the 5 wells are either in a landslide area or adjacent to one, it is logical to assume that Mitigation Measure Geology-8 would require implementation. Yet, without prior investigation of the proposed well sites it is not possible to gage whether this be a feasible mitigation. Other more feasible well sites may need to be located, studied and tested.

Therefore in order to avoid conflict with policy *R-RC 9* and provide adequate CEQA documentation, a geotechnical investigation and a water supply assessment for the wells in both groundwater basins must be completed in order to present the EIR for certification.

**Project Specific Concerns**

As part of our CEQA comment letter, we would like to take the liberty of mentioning two of many issues of interest and/or concern we have with this project. We will submit other comments as the process moves forward.

**Zoning.** The Coyote Highlands, LLC property is zoned Rural Residential whereas the Fountain Oaks, LLC is zoned Hillside. Yet both properties are contiguous and topographically similar, having steep slopes not well suited for development; the Coyote Highlands property even more so with its three primary watersheds, seeps, and wetlands, many natural hazards, and the
viewshed it provides from the valley floor. Notwithstanding General Plan Site Specific Amendment R-LU-A: 5, this property seems to be a perfect fit for the definition of the Hillside definition contained in the County Zoning Ordinance (Section 2.20.010).

Recording of Conservation Easement a Condition of Final Map (should project be approved).
Prior to recordation of the final subdivision map (should the project be approved), the conservation easement over the open space areas should be recorded and noted on the final map. We would like to see that the independent land trust be paid an endowment to monitor and enforce conditions of conservation easement in perpetuity.

Thank you again for the opportunity to comment. We request that CGF be kept on the notification list for the proposed Project area.

Sincerely,

Julie Hutcheson
Environmental Advocate
The Appendix G Section of CEQA the comment references regards whether the project would conflict with land use policies intended to avoid or mitigate an environmental impact. The Draft EIR evaluates the proposed project’s consistency with the County’s land use policies on Pages 3.10-15 through 3.10-17. General Plan Policy R-RC 9 is a Resource Conservation Policy rather than a land use policy. The Draft EIR evaluates the sufficiency of water resources for the proposed project on Pages 3.9-18 and 3.9-19. It concludes that a safe yield needed for 25 single-family homes is well above the supply to be provided by available groundwater resources. The Draft EIR evaluates groundwater quality on Page 3.9-25. It is noted on Page 3.9-25 that the project site is not located in an area where there is evidence of high nitrate levels in the groundwater, and that water quality testing would be required to ensure the proposed new wells would meet and State water quality standards. If water quality does not meet standards, filtration or other treatment at the well head would be required. Because this is a standard requirement per State regulations, no mitigation is required.

Proposed well sites ETS-11 and ETS-18 are located in mapped landslide zones north and east of the project site.\textsuperscript{1} At the time that a specific well will be installed, specific geotechnical studies could be required to confirm stability for installation. However, it should be noted that these proposed sites are preliminary and could be relocated if needed. The Water Supply Assessment prepared for the project (discussed under 6-2 below) concluded that there were sufficient groundwater resources available to support the subdivision but did not specify specific locations for wells. Thus, as the well sites can be relocated within this larger watershed should specific geotechnical issues be encountered for a specific site, other sites could be used. It should be noted that the project will use five groundwater wells and only two of the wells as referenced are in the landslide hazard zone.

Because the proposed water system would serve at least 25 homes, it would be regulated by the California Department of Public Health (CDPH) as a public drinking water system. The owner/applicant would be required to obtain a domestic water supply permit from CDPH.

6-2 A Water Supply Assessment was prepared by Geoconsultants, Inc. on June 21, 2012, and it supports the conclusion of the Draft EIR that sufficient groundwater is available to supply the proposed subdivision. This study was inadvertently left out of the appendices of the Draft EIR, but is included in Appendix A of the Final EIR.

\textsuperscript{1}BAGG Engineers, December 2009. Geologic Fault Investigation, Coyote Highlands Residential Development, Santa Clara County, CA.
As noted above, the Water Supply Assessment has already been performed. As noted on Page 3.9-25 of the Draft EIR, the project site is not located in an area where there is evidence of high nitrate levels or other pollutants (such as perchlorate) in the groundwater. The project site is bordered to the south by a rural, hillside subdivision where over 20 existing residences obtain drinking water from groundwater wells within the same general bedrock aquifer as the project. There has been no evidence that these wells (nor the future wells for the project) would use groundwater that is not potable.

Water quality testing would be required to ensure the proposed new wells would meet County and State water quality standards. If water quality does not meet standards, filtration or other treatment at the well head would be required to ensure that those standards are met. Because this is a standard requirement perm existing regulations, no additional mitigation is necessary and no well site specific studies are needed at this stage to ensure the impact would be less than significant.

See Response to Comment 6-1. The proposed project does not conflict with R-RC-9, because adequate groundwater is available to supply the proposed project, wells can be feasibly located on geologically stable sites, and water quality can be ensured through testing and on-site filtration/treatment, if necessary.

This is not a comment on the adequacy of the Draft EIR. This comment references the general plan designation for the site and adjacent general plan designations. Please see response 7-3 for a response to comments of a similar nature.

The conservation easement for the open space areas would be recorded and noted on the Final Map as per the County’s standard procedure. It would be the responsibility of the owner/applicant to ensure adequate financial resources are available to implement mitigation measures.
January 16, 2013

Mark J. Connolly, Planner III
Santa Clara County Planning Office, County Government Center
70 W. Hedding Street, 7th Floor, East Wing
San Jose, CA 95110

RE: Coyote Highlands Subdivision Project Draft EIR

Dear Mr. Connolly,

Thank you for allowing Greenbelt Alliance the opportunity to provide comments on the Coyote Highlands Subdivision project, located in the foothills of Santa Clara County, east of Morgan Hill. The project calls for a 25-residential lot subdivision of a 567-acre site. Greenbelt Alliance appreciates the extension on submitting written comments.

Greenbelt Alliance is the champion of the places that make the Bay Area special. We bring people together to make the region great for everyone by ensuring the right development happens in the right places. We appreciate the opportunity to work with the County of Santa Clara, most recently on its General Plan update.

In general, Greenbelt Alliance does not support development of the region’s hillsides, greenbelts and working farms. In the case of Coyote Highlands, while we recognize that there is rural residential and suburban development adjacent to the proposed project, we lament the possibility of South Santa Clara County’s foothills resembling the foothills in San Mateo County along the El Camino Real corridor. Specific concerns relate to impacts to the three creeks, Fisher, Corralitos and Foothill, as well as impacts to wildlife crossings and viewsheds from the valley floor.

Additional concerns relate to stretching County services even further, such as in the case of emergencies like fire or earthquake.

Reduced Scale Alternative

Greenbelt Alliance supports the Reduced Scale Alternative, which is identified as the Environmentally Superior Alternative in the Draft Environmental Impact Report. The site is currently zoned for 8 lots, and County rules on number of lots allowed in such a project are maximums, not rights. Environmental considerations point to the need for a more conservative
subdivision project. We support removing six proposed lots for a total of 19 lots on the 567-acre site.

Rural Residential vs. Hillside Zoning

Perhaps a larger question is, why was this land rezoned as Rural Residential in the first place? Craig Breon, formerly Executive Director of the Santa Clara Valley Audubon Society, stated a few years back that “Most Rural Residential lands are relatively flat, on or close to the valley floor” while this property “contains many slopes above 30%, fault lines, landslide potential, prominent ridgelines, and creeks that have not been denuded historically by agricultural practices.” It seems clear that these lands should be zoned Hillside.

We would like to echo questions Craig made at the time and ask that if they were ever answered, to please share those answers with us. If not, please respond as part of this Draft EIR phase:

Why was the larger parcel zoned Rural Residential in the 1980’s?
What are the differences and overlap of the standards for Rural Residential and Hillside zonings?
Which of those standards best fits this property?
What would be the implications for development were the property to be rezoned?
What would the process of rezoning look like?

Nineteen lots is a win-win

Nevertheless, Greenbelt Alliance supports removing 6 of the 25 lots. Those sites that present the most impacts to riparian corridors, sensitive biological resources, viewsheds and future property owners should be removed. While the developer may view this as an economic impact, and therefore not desirable, this is an Environmental Impact Report which must weigh the costs and benefits of one project over another for all stakeholders—including future property owners, current land owners and yes! protected species such as the Golden Eagle.

It is noted in the Draft EIR that Mitigation Measures Geology-3 and Geology 4 defer important geotechnical investigations to a later stage, namely when a lot has been sold and the property owner seeks to build a home. Considering that there are active fault lines and steep slopes throughout the property; exposing people and structures to adverse effects, such as risk of loss, injury or death, is a significant impact that has not been fully mitigated through this EIR. Reducing this impact to Less than Significant can be accomplished by removing 6 lots from this subdivision request, including Lot 9, which includes an identified earthquake fault.

Lot consolidation also ensures that properties that require extensive grading (such as Lot 2’s long driveway), thereby contributing to ground destabilization, are removed. This provides safety for future residents as well as more land for wildlife movement and less likelihood of viewshed obstruction.

We suggest that the lots to be removed are 2, 7, 9, 15, 18 and 19.

Growth-Inducing Impacts

While the Draft EIR states that the proposed project is not growth-inducing, Greenbelt Alliance is curious about one element and would like to explore this further. Included in the Draft EIR is a letter from Manouchehr Mobergedhahi, dated October 15, 2010. In it he states that, “MHLLP shall grant the easements and execute such other documents as are necessary for CHLLC to locate,
drill and complete water wells and to construct supporting pipelines, utilities, roadways and water storage facilities on MHPLLC lands." It has been made clear in the Draft EIR and by County Planning staff that the private water system proposed as part of this project is intended to support the 25 lots only.

However, Greenbelt Alliance also has access to a letter to the City of Morgan Hill from Bill Chiala about his intention to form a private water company to serve the Chiala PD in the City’s Southeast Quadrant. He states that water service would be supplied “through gravity fed water system sourced by a common well or wells to storage tanks in the east foothills’. The Chialas own land in both the Coyote Highlands Subdivision area (Fountain Oaks LLC) and Southeast Quadrant. It seems that the improvements mentioned in the Mr. Mobedshahi’s letter would more easily allow development of the Southeast Quadrant. Please explain why this would not be the case, and therefore not growth-inducing.

It is well-known that the Southeast Quadrant in Morgan Hill has been a hot button issue; a proposal to prematurely annex greenbelt lands into the City for development when plenty of infill sites abound within city limits. The Southeast Quadrant is immediately west of the Coyote Highlands Subdivision, bounded by Maple Avenue to the south; a street that leads to the proposed project’s site. It is reasonably foreseeable that improvements made to the delivery of water to Coyote Highlands can remove an obstacle to development of the more contentious Southeast Quadrant project in Morgan Hill. Please explain why this may not be so.

This concludes our comments on the Coyote Highlands Subdivision project. Again, we appreciate the extension for submitting comments. Please keep us informed of next steps as they relate to this project. We appreciate responses to the questions included within this letter.

The quality of life in Santa Clara County depends on people living in harmony with their surroundings and includes protecting our area’s rich biodiversity. Santa Clara County contains 31 of California’s 61 habitat types, from coastal scrub to redwood forests to blue oak woodlands. These lands must be cherished for generations to come.

Sincerely,

Michele Beasley
Senior Field Representative

CC: Bill Shoe, Santa Clara County Planning
    Rob Eastwood, Santa Clara County Planning
    Julie Hutcheson, Committee for Green Foothills
    Shani Kleinhaus, Santa Clara Valley Audubon Society
The comment is acknowledged. Responses to the concerns referenced are provided below in response to specific comments.

The Reduced Scale Alternative the commenter has expressed support for is described and evaluated on pages 5-11 through 5-13 of the Draft EIR. Comments in support of project alternatives will be considered by the Planning Commission and Board of Supervisors when it considers the approval of the project.

The comment appears to confuse legal lots with zoning designations. The project site is not zoned for the development of 8 lots. It is currently comprised of 8 existing legal lots, each of which is located in either of two zoning districts—Hillside and Rural Residential. Maximum development potential is determined by the minimum lot sizes allowed in the Rural Residential and Hillside districts as well as regulations for creation of subdivisions. The comment is correct in that under the current zoning designation and County policy, the property owner could propose a new single-family residence on each of these eight existing legal lots. However, although a single-family residence is considered a “by right” land use in these zoning districts, the 8 existing lots are not approved building sites and would therefore require discretionary permits from the County Planning Office even for development of a single family residence on each lot.

The comment supports a subdivision to create 19 lots, compared to the 25 lots proposed, citing environmental considerations. It should be noted that the Draft EIR concluded that all of the proposed project’s significant impacts could be mitigated to a less-than-significant level.

This comment does not pertain to the adequacy of the Draft EIR. For reference purposes, on December 7, 1982, a General Plan amendment from Hillside to Rural Residential, 20 acres, was approved by the County Board of Supervisors for the subject property. The relevant findings supporting this general plan amendment by the Board of Supervisors may be obtained at the Clerk of Board, 70 West Hedding, 10th Floor, East Wing, San Jose, CA 95110.

Regarding the comparison between Rural Residential (RR) and Hillside (HS) standards for zoning, pursuant to Zoning Ordinance § 2.20.030, § 2.20.040, and Table 2.20-4 (Slope Density Provisions in Rural Base Districts) the development standards for residences are the same including setbacks, and height. Density is based on the County’s slope-density calculation as set forth in Table 2.20-4 (Slope Density Provisions in Rural Base Districts). The slope density provisions for Hillsides allows for the creation of lots between 20 and 160 acres in size while the slope density provisions for Rural Residential allows for the creation of lots between 5 and 20 acres in size.
The question regarding the implications if the property were to be rezoned is speculative. As noted above, if the property was designated as Hillsides, the maximum development density would be 10 lots. Per the County Zoning Ordinance, a subdivision that involves more than 2 lots within the Hillside Zoning District would require clustering, consistent with the proposed project.

The process to rezone the project area requires an application to be submitted to the County Planning Office proposing a General Plan Amendment Request for Processing to modify the land use designation on the property from Rural Residential to Hillsides, and is subject to approval by the Board of Supervisors. If the Board approves the request to process the application, then a formal application for a General Plan Amendment along with an application for rezoning must be submitted, subject to review and approval by the County Board of Supervisors.

7-4 The comment supports removal of 6 of the 25 lots to reduce impacts to riparian corridors, sensitive biological resources (including the Golden Eagle), viewsheds, and future property owners. As noted above, the Draft EIR describes and evaluates the Reduced Scale Alternative (removing 6 of the 25 lots) on pages 5-11 through 5-13. Also as noted above, the Draft EIR concluded that all significant impacts of the proposed project—that is, without removal of 6 lots—could be mitigated to a less-than-significant level.

Impacts to Biological Resources are evaluated in Section 3.4 of the Draft EIR. Golden Eagle impacts are evaluated on pages 3.4-43 through 3.4-47. With implementation of Mitigation Measures 28-32, the proposed project would not have a substantial adverse effect on this species. Impacts to riparian corridors are evaluated on pages 3.4-47 through 3.4-48. With implementation of Mitigation Measures 34-36, the proposed project would not have a substantial adverse effect on any riparian habit.

The County Geologist has determined that all of the proposed lots are feasible to build a new residence without exposing people or structures to adverse geologic hazards. Although geologic hazards coincide with portions of some of the proposed lots, the actual building envelopes are located away from these hazards. Additional geotechnical studies to be conducted at the home building stage would be for the purposes of determining specific structural reinforcements needed to comply with the California Building Code. The earthquake fault located in the vicinity of Lot 9 is not active, and would have no bearing on the feasibility of building a home on that site. The access road for Lot C2 does cross an identified landslide. However, the geologic studies conducted for the EIR conclude that this area can be stabilized to support safe driveway access. At the time of future construction, site-specific engineering solutions, such as replacing loose fill and ensuring adequate drainage will be installed.

7-5 Growth-inducing impacts are evaluated in Section 4.4 of the Draft EIR. Because the water system is proposed to be sized for only 25 home sites, including the size of the water tank and water lines, and the proposed utility network will only
be extended to serve the onsite residential lots, this infrastructure would not induce growth elsewhere.

7-6 The comment refers to a letter from Bill Chiala, owner of the Fountain Oaks LLC portion of the project site, to the City of Morgan Hill regarding the idea of setting up a private water company to serve the City’s Southeast Quadrant Study Area. The comment suggests that, in connection with this concept for a private water system, improvements made to the delivery of water to Coyote Highlands could somehow remove an obstacle to development of the Southeast Quadrant Study Area.

However, as noted above, the proposed Coyote Highlands water supply infrastructure is not sized to supply any uses outside of the development. Although it is theoretically possible that additional wells could be drilled on the Fountain Oaks LLC portion of the project site to supply water to areas outside of Coyote Highlands, these wells are not proposed and are not needed to serve any of the proposed uses on the project site. In addition, any water that these theoretical additional wells might provide to the Southeast Quadrant Study Area would have to be transported an extensive distance via a pipeline that does not exist, is not proposed, and may not be feasible. Far from being reasonably foreseeable, such a scenario is grossly speculative. Even if such infrastructure were developed, it would in no way be attributable to the project this EIR evaluates.
January 16, 2012

Mark J. Connolly, Planner III
Santa Clara County

Re: DEIR: Coyote Highlands Cluster Subdivision

Dear Mr. Connolly

Santa Clara Valley Audubon Society (SCVAS) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the planned Coyote Highlands Cluster Subdivision project (Project.) Our members typically share a passion for wildlife and natural resources; especially birds. We strive to protect open space and habitats as well as dispersal and migration routes. The Project is planned in the foothills of the Diablo Range above Santa Clara Valley east of the City of Morgan Hill. Many species for birds use the project area, and a Golden Eagle nest is found on site. Our membership is expressly interested in the preservation of the nest and the assurance that successful breeding may occur there. We are also interested in any impacts to streams and their riparian ecosystems, as these ecosystems provide resources for a large variety of bird species in Santa Clara County.

Approval of the project as proposed would allow for subdivision of the property into 25 residential lots, each with an associated septic leach field. The project would also construct access roads (including a road through the headwaters of Corralitos Creek) and trails that would allow access to all three creeks on the property and to the Golden Eagle’s nesting site.

Please accept the following comments:

Comment 1: Bird Collision with Windows
The North American Bird Conservation Initiative—a joint effort of federal agencies and nonprofit conservation organizations—released the “2009 State of the Birds” in which it reported that the majority of migratory birds in North America are suffering significant population declines due to human-induced causes, including habitat loss and collisions with man made structures (http://www.stateofthebirds.org/2009). Recently, the American Bird Conservancy published a report on the issue (www.abcbirds.org/newsandreports/BirdFriendlyBuildingDesign.pdf). The report examines the problem of bird collision with windows, and offers solution.
Due to the placement of homes in a natural setting, the project can be expected to create a collision risk for birds. This impact should be recognized, analyzed and mitigated to a less than significant level on a project-specific and cumulative levels. Fortunately, design guidelines are now available and products are becoming commercially available to mitigate collision of birds with windows, so mitigation is feasible.

Comment 2: Impacts to Corralitos and Foothill Creeks

- Lot 15 is situated in a small area at a fork between 2 small tributaries at the headwater of Foothill Creek. On a site visit soon after the rains, it looked as though the entire site was washed with surface flows as an integral part of the creek, and we are concerned with the potential of a leach field at that site to cause contamination downstream. The risk associated with this specific site means that the County’s general standards and guidelines may not suffice to reduce environmental impact to a less than significant level. In this specific case, it is not enough that the project “would not result in a septic field being constructed on soil where a high water table extends close to the natural land surface”. The EIR should consider contamination of creeks and surface water in its Mandatory Findings of Significance checklist, and provide adequate analysis and mitigation.

We ask for an in-depth analysis of the potential of the septic leach field on lot 15 to contaminate Foothill Creek. We request that a hydrological and geotechnical investigation for this proposed septic leach fields be provided to the public, and any potential contamination due to soil permeability and/or stability issues be analyzed and mitigated to a less than significant level prior to certification of the EIR.

- The project would construct culverts and other drainage features where the proposed roadway would cross over existing creeks, drainages, swales, and wetlands. The impacts on the upper reaches of the creek are likely to reverberate down the watershed, and potentially cause incision and require reinforcement of the creek downstream, beyond the project site. The DEIR proposes to mitigate through the purchase of mitigation credits or through creation of riparian habitats on- or off-site (Mitigation Measure Biology-34.)

We ask that the purchase of mitigation credits not be allowed. Such mitigation for allows local destruction of resources while preserving them elsewhere. Mitigation banking, while appropriate in some cases, should not be considered adequate mitigation for disruption of aquatic and riparian ecosystems at the upper reaches of creeks, as the resulting degradation is not limited to the project property and instead, can impact the entire watershed. Thus, proof of purchase of credits from an approved mitigation bank with a service area that includes the Project site should not be accepted as adequate mitigation.

Alternatively, to mitigate for the impact to Corralitos creek, the DEIR proposes planting of native trees in the upper reaches of the creek. This mitigation does not mitigate for
potential structural, geomorphologic damage to the creek. Furthermore, in our visit of the site, we saw no place where planting trees would substantially improve the creek’s ecosystem, and it is our opinion that the proposed “restoration and enhancement of approximately 2,247 linear feet of Corralitos Creek riparian habitat” does not adequately compensate for the adverse impacts and may potentially exacerbate the damage.

We maintain that impacts to Corralitos Creek remain significant and that the finding that mitigation has reduced the adverse impact to a less than significant level is not supported.

Comment 3: Human and pet activity; impact on Golden Eagle’s nest
Golden Eagles may abandon a territory if human development and activity levels change (Driscoll, D.E. 2010. Protocol for golden eagle occupancy, reproduction, and prey population assessment. American Eagle Research Institute, Apache Jct., AZ. 55pp.) The DEIR does not adequately analyze nor mitigate the potential of activity by subdivision and their pets to disrupt nesting activity by the Golden Eagle on the property. Active eagle nests are always a great attraction to humans, and it is futile and ineffective (infeasible) to mitigate this curiosity with temporary trail or road closures, or signage. The EIR should recognize the potential of humans and their pets to displace a Golden Eagle from its nest as a significant, unavoidable impact. In addition, the EIR should provide clear and practical mitigations to minimize disturbance by humans, service animals and pets (horses, dogs) and the potential for the eagles to prey on resident’s pets. We recommend:

- The elimination/re-routing of all trails and service roads within the view shed of the nest.
- Allowing one distant viewpoint, and building a blind to allow viewing of the birds without disturbing the nest.

Comment 4: Burrowing Owls
Burrowing owls are at the risk of extirpation in Santa Clara County (Santa Clara County Habitat conservation Plan (HCP), Appendix M.) The eviction of burrowing owls (Mitigation Measure Biology-26), even if it occurs outside of the nesting season, should be considered a significant impact that cannot be mitigated. In addition, the Habitat Conservation Plan mitigations for the species (approved by the County in 2012) over-ride the mitigation outlined by current CDFG-approved protocols (CDFG 2012) and in the unlikely event that burrowing owls are found on the property, the Burrowing Owl Conservation Strategy of the HCP should be followed.

Comment 5: Deferred evaluation, analysis and mitigation
The Biological assessment performed by Olberding Environmental was a “general field reconnaissance” according the biological technical document. Data about the existence of protected and sensitive species seems to have been taken from historic data sets that are not referenced. The DEIR only states whether protected species “may occur” and the probability of occurrence, and does not state how that determination was made. A detailed biological survey of animal and plant species by qualified biologists should be made on the property before approval of the EIR is made so the true impacts can be evaluated. Not before construction occurs and after the approval of the EIR. As it stands, the DEIR makes assumptions of for the existence or
absence of protected species that cannot fully inform about the impacts of the project on the environment.

Mitigation Measure Biology-33 lists requirements for a Habitat Mitigation & Monitoring Plan (HMMP) for preservation and management of special-status plant and animal populations on the mitigation lands. As proposed, it is not clear that the mitigation measures that would be included in the HMMP are feasible, and the DEIR does not provide associated success criteria. We ask for the HMMP to be made available for public review as a part of the EIR.

Comment 6: Agriculture
The DEIR mention that agriculture would be permitted. Please analyze the potential impacts of irrigated agriculture and vineyards on biological resources (including secondary poisoning.)

Conclusion
We thank you for the opportunity to comment on this project. While SCVAS does not oppose development of this property, we hope the County would reconsider the potential of providing access through Oak Canyon Drive, and adhere to the Environmentally Superior Alternative identified in the DEIR(C, Reduced Project Alternative.) this would allow the Project to proceed while substantially reducing environmental impacts.

Please keep us informed on any further opportunity for public review and input on this project,

Thank you,

Shani Kleinhaus, Environmental Advocate.
The construction of 25 residences on the project site will likely increase bird mortality through collisions with home windows once residences have been built. The final site layout and home designs will be developed as homes are proposed for individual lots; those designs are approved by the County during its standard residential design review process. Given the low number of residences that will be constructed on the site, the number of individual birds that may be inadvertently killed by collision would not have a substantial adverse effect on the regional populations of any one species, or on the local bird communities, and thus would not meet the standards established by the CEQA guidelines for a significant impact. Therefore the impact is considered less than significant and no mitigation is required. Nevertheless, text has been inserted in the discussion of impacts to migratory birds to acknowledge this less-than-significant impact. (See Revisions to the Draft EIR)

The type of leach field required for Lot 15 in addition to all proposed residential lots, would consist of an arrangement of trenches containing perforated pipes and porous material (e.g. gravel) covered by a layer of soil to prevent contact between surface runoff and the wastewater distributed within the trenches. As required by County Ordinance, percolation studies have been conducted in the area where the leachfield is proposed for Lot 15 to confirm that the soils will adequately handle percolation from the leachfields and that there is adequate separation to groundwater. These studies have been reviewed and approved by the Department of Environmental Health, certifying that installation and operation of the leachfield will not result in groundwater (or surface water) contamination. The area where the leachfield for Lot 15 is proposed is not greater than 20% in slope and thus would not create slope instability. Given this design, the comment does not explain how any contact between water in a drainage swale or watercourse (such as Foothill Creek) and a subsurface leach field would occur. The proposed leachfield is setback a minimum of 50 feet from the nearest swale and 100 feet from the top of bank of Foothill Creek. These required setback distances that the comment suggests may be inadequate are consistent with Central Coast Regional Water Quality Control Board Policy and have been adopted in the Santa Clara Valley Habitat Plan. The commenter has not provided evidence that this setback distance has been inadequate historically or how it would not be protective in the case of Lot 15.

The project would install culverts and other drainage improvements where the proposed roadways will cross the creeks and other wetland features. The installation of culverts and other improvements are intended to maintain the existing hydrology of the watershed. As described in Section 3.9 of the Draft EIR, the roadway and future residential development will not alter the natural drainage boundaries and the majority of the project area would remain as open space and continue to drain via Foothill, Fischer, and Corralitos Creeks to Monterey Bay. The installation of culverts is not expected to cause incision or
other substantial geomorphic/hydrologic changes downstream. However, the construction of the roadway and residences could cause an increase in the rate and amount of surface runoff through an increase of impervious areas. This increased runoff could increase erosion and/or sedimentation to downstream areas. To address this issue, the DEIR required the implementation of Mitigation Measure Hydrology-3. This measure requires the preparation of a Stormwater Management Plan that will include water quality best management practices (BMPs) that promote infiltration (i.e., “green treatment” of runoff) that is consistent with Regional Water Quality Control Board (RWQCB) guidance for permit compliance. The BMPs will be in accordance with engineering criteria in the California Stormwater BMP Handbook for New and Redevelopment. The BMPs will be reviewed and approved by the County prior to issuance of grading or building permits. Additionally, roadway and infrastructure construction must comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit, including filing a notice of intent with both the Central Coast and San Francisco Bay RWQCBs. Coyote Highlands would also have to comply with the conditions of Sections 401 and 404 of the Clean Water Act to receive water quality certification. To meet these requirements and to reduce runoff during the construction phase, a Storm Water Pollution Prevention Plan, as described in Mitigation Measure Hydrology-1 will be developed to prevent the discharge of soil, silt, or other materials into waterways during roadway and infrastructure construction. Because these measures will be implemented and the installation of culverts and other improvements will occur in very limited areas, and are intended to maintain existing hydrology of watershed, the potential for runoff is minimized such that impacts related to hydrology and water quality are mitigated to a less-than-significant level.

The construction of the main access road will result in the permanent loss of approximately 0.72 acres of riparian habitat adjacent to the creek channel. As noted in Mitigation Measure Biology-36, a Streambed Alteration Agreement will need to be obtained from the California Department of Fish and Wildlife (CDFW) for impacts to riparian habitat prior to disturbance occurring in riparian areas. The riparian habitat will be replaced at a ratio (to be approved by CDFW) to compensate for the temporal loss of the impacts to riparian areas. Riparian mitigation in the conservation easement areas or offsite in a mitigation bank is intended to replace the functions and values of the lost riparian areas either locally (i.e., onsite) or regionally (i.e., in a mitigation bank). A contribution to a mitigation bank for impacts to wetlands or riparian habitats would contribute to maintaining the functions and values of riparian habitat regionally, and resources agencies have traditionally allowed for mitigation to be satisfied through the purchase of credits in mitigation banks. In fact, in the 2008 Compensatory Mitigation Rule for Losses of Aquatic Resources, the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency specified that purchase of credits in a mitigation bank should be the first mitigation option for impacts to aquatic and wetland habitats, due in part to the higher ecological functions and values that may be supported by large areas of contiguous wetlands, as opposed to small, scattered project-specific mitigation sites; the more rigorous technical analysis that often accompanies mitigation banks; and the up-front wetland restoration that occurs on mitigation banks (thus avoiding temporal losses).
approach is the foundation of the regional mitigation bank approach and conservation strategy for the Santa Clara Valley Habitat Plan.

As described above, mitigation measures, including Hydrology-1 and Hydrology-3, are included to prevent hydrologic and geomorphologic changes to the watershed and with the implementation of all these measures, no substantial changes to the watershed, including downstream areas, are expected. Therefore, it is expected that the implementation of the above-described mitigation measures will maintain the hydrological integrity of the watershed while replacing the lost functions and values of the impacted riparian areas.

8-4 We disagree that there are no places where planting trees would improve habitat value along Corralitos Creek, as the applicant has identified several locations in the project area where native trees could be planted, and those trees would ultimately increase and enhance the functions and values of riparian habitat onsite.

The response to Comment #2 addresses the comment regarding mitigation for potential structural, geomorphologic damage to the creek by describing the measures that will be implemented to reduce any such adverse effects to less-than-significant levels.

8-5 Human disturbance, including activity associated with recreational trail use and the presence of pets, is recognized in the DEIR as a potential source of abandonment of the golden eagle breeding territory. However, we disagree that this impact cannot be mitigated to a less-than-significant level.

The most important measure to prevent the abandonment of nesting eagles presented in the DEIR is Mitigation Measure Biology-32, which requires a viewshed buffer zone within 0.5 mile around any eagle nest and a 0.25 mile buffer of all construction activities during the breeding season (January 15 and August 1, or as determined by a biologist). As described in this comment, enforcing temporary closures poses challenges, as people are likely to be interested in viewing the eagle nest. However, building a blind to view the nest is impractical, as the eagles may vary their nesting location annually, and thus the blind may be unusable in any given year and individuals interested in observing the nest may seek other, less suitable viewing locations as a result. Also re-routing all trails and service roads to outside the viewshed of the current nest site is not advisable due the additional environmental impacts associated with grading new roads, it is not feasible due to topography on the site, and, as described above, eagles may alter their nesting location annually and thus new roads or trails may be located within the viewshed of a nest in subsequent years.

However, in order to help ensure that seasonal buffers are maintained around eagle nests, additional measures have been included in Mitigation Measures Biology-31 and 35 in response to this comment. These include the installation of physical obstructions where trails or other access points cross the buffer limits to discourage entry into the buffer zone during the breeding season; signage to explain the purpose of the seasonal closure and describe the suitable (i.e.,
designated) eagle nest viewing location(s); and pamphlets that will be provided annually to homeowners to discuss the measures that are being implemented to protect the eagles and the importance of maintaining such protection. These measures will all be implemented by the Homeowners’ Association.

In addition, the protective measures for the golden eagles described in Mitigation Measures Biology-30, 31, 32, 33, and 34 have been added to the description of the contents of the HMMP in Mitigation Measure Biology-4.

With implementation of the mitigation measures in the DEIR, as revised based on this comment, disturbance of the nesting golden eagles will be minimized to the point that territory abandonment will not occur, and that this impact will thus be reduced to a less-than-significant level.

8-6 This comment requests that the measures listed under the Burrowing Owl Conservation Strategy of the Santa Clara Valley Habitat Plan be used if Burrowing Owls are discovered on the subject property.

The Santa Clara Valley Habitat Plan, prepared by six local agencies (County of Santa Clara, Cities of San Jose, Gilroy, Morgan Hill, Santa Clara Valley Water District, Valley Transportation Authority), provides for programmatic Endangered Species permitting consistent with the Federal Endangered Species Act (“ESA”) (16 U.S.C. §§ 1531-1544), the California Endangered Species Act (“CESA”) (Fish & Game Code § 2050 et seq.), and the California Natural Community Conservation Planning Act (“NCCPA”). The Western Burrowing Owl, a Federal and California Species of Special Concern, is included within the Santa Clara Valley Habitat Plan.

The Santa Clara Valley Habitat Plan has been adopted by all local partners and will next require the issuance of incidental take permits from the U.S. Fish and Wildlife Service and the California Department of Fish and Game. It is anticipated that the Habitat Plan will become effective in summer or early fall, 2013.

The proposed subdivision is located within the boundaries of the Santa Clara Valley Habitat Plan area, and thus if the subdivision is a covered project under the Plan, it will be subject to the Burrowing Owl Conservation Strategy contained within the Plan.

8-7 Reconnaissance-level surveys are frequently used to determine whether regulated or regionally important habitats are present, and to determine the likelihood that special-status species are present on a given site for the purposes of impact assessment. Often, as in this instance, reconnaissance surveys are followed by more focused surveys and/or habitat assessments by individuals with relevant expertise. In the case of Coyote Highlands, focused surveys for raptors, special-status plants, and potentially jurisdictional wetlands were conducted by the applicant’s biologist. Follow-up surveys and habitat assessments were conducted by ecologists with expertise in avian ecology, plant ecology, and herpetology, under contract to the County. In many cases absence cannot be determined through such site visits, but presence is assumed when potentially
suitable habitat is available. This is the case for California tiger salamander and California red-legged frogs at Coyote Highlands. Although these species were not observed, it was determined that they could occur within wetland habitats (and subterranean refugia) on the site and mitigation for these species will be implemented. The collective knowledge of biological resources in the project area of the applicant's and the County's consultants, coupled with existing information such as California Natural Diversity Database records, information compiled for the Santa Clara Valley Habitat Plan, and other resources, is adequate when coupled with the surveys listed above to document conditions on the site appropriately for CEQA review purposes. Where additional surveys are necessary to refine the impact assessments and mitigation measures (e.g., for rare plants), those surveys were identified and required as mitigation measures. Thus, it is our opinion that the surveys were adequate for the purposes of impact assessment and that no new potentially significant impacts would be identified if additional surveys were conducted.

8-8 The DEIR (Mitigation Measure Biology-33, page 3.4-29) includes a list of the items that must be discussed in the HMMP and requires approval of the HMMP by the County prior to project implementation. The list of HMMP contents includes all the detail necessary to establish the contents of the HMMP for CEQA purposes. Some specific details, such as monitoring methods and specific performance criteria, will be refined once specific habitat mitigation and management measures are formulated. For example, management of suitable upland habitat for golden eagles, California tiger salamanders, and California red-legged frogs can be achieved in several ways (e.g., managed grazing may be appropriate in some areas but not others), and there are multiple means by which suitable upland habitat conditions may be measured (e.g., various residual dry matter measurement methodologies, burrowing mammal density, or other means). Specific performance criteria will vary depending on the management and monitoring methodologies that are utilized. As a result, it is not necessary for the specific details of the HMMP to be determined at this time, and Mitigation Measure Biology-4 in the DEIR includes the necessary level of detail to ensure that the HMMP will be prepared appropriately before it is approved by the County. Numerous other projects have developed management plans for the species and habitats that will be addressed by the Coyote Highlands HMMP, and thus it is well known that management for these resources is feasible.

8-9 Agricultural activities, such as irrigated agriculture and vineyards, are already allowed as a matter of right (without discretionary review) on the project site under existing zoning (Rural Residential & Hillsides). Approval of the proposed project would not change this existing regulatory condition. In fact, the proposed project would reduce the potential impacts of any future irrigated agriculture through the creation of open space lots as part of County clustering requirements. Per Mitigation Measure Biology 31, the 364 acre on-site conservation area within these open space lots will be maintained for golden eagle foraging and nesting habitat, precluding the installation of irrigated agriculture.
Recommendation regarding adoption of the Environmentally Superior Alternative may be considered by the Board of Supervisors in reviewing the subdivision for approval.

As stated on the last paragraph of Page 2-10 (Section 2.5.1, Roadways), the terminus of the new primary roadway at Oak Canyon Drive would be gated and not allow for regular through traffic, but would provide emergency vehicle access. In addition, in the event a fire, earthquake, or other emergency event closed either Oak Canyon Road or East Dunne Avenue, the gate could be opened to provide emergency access for residents of the respective subdivisions.
January 16, 2013

Mr. Mark Connolly, Planner III
Santa Clara County Planning Office, County Government Center
70 West Hedding Street, 7th Floor, East Wing
San Jose, CA 95110

Subject: Coyote Highlands Subdivision Project—County File 3009-10CST-11EIR

Dear Mr. Connolly:

The Santa Clara Valley Water District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the subject project, received on December 3, 2012. Although, the project does not need approvals or permits from the District for establishment or construction of the subdivision, the District reviewed the DEIR for impacts to the riparian corridors, water quality, flooding and water supply. In general, the document addresses the District’s concerns relative to water quality, flooding and water supply. However, the document does not clearly identify mitigations for impacts to the riparian corridors and habitat.

Pages 3.4-24 through 3.4-26, Santa Clara County General Plan—This section states that the listed policies are applicable to the proposed project. General Plan Policies R-RC 31 through R-RC 40 specifically identify a 150-foot setback to natural creeks, such as those located on the project site and various restrictions in that setback area along with other policies, including providing for adequate separation of new roads and building sites from the stream environment. Subsequently, on Page 3.4-53, it states “With mitigation incorporated, the proposed project would not conflict with any local policies or ordinances protecting biological resources: (i) Tree Preservation Ordinance [Section C16], (ii) Wetland Habitat [GP Policy, R-RC 25-30], (iii) Riparian Habitat [GP Policy, R-RC 31-41].” However, the mitigation listed (Mitigation Measure Biology-39) to address impacts to the Tree Preservation Ordinance, Wetland Habitat general plan policies, and Riparian Habitat general plan policies only addresses impacts to the Tree Preservation Ordinance. There are no mitigation measures listed to address impacts to Wetland and Riparian Habitat general plan policies. The DEIR does not adequately state the impacts to Wetland Habitat and the extent to which it will comply with Riparian Habitat general plan policies R-RC-25 through 41 and what mitigation measures will be employed to address areas where the project proposes to deviate or does not comply with each of those policies. Consequently, the DEIR text does not support a designation of “Less than significant impact with mitigation incorporated” for this threshold of significance.
If you have any questions, please contact me at (408) 630-2319 or at yarroyo@valleywater.org. We appreciate the opportunity to comment on the DEIR and look forward to reviewing the final Environmental Impact Report when it is prepared.

Sincerely,

Yvonne Arroyo
Associate Engineer
Community Projects Review Unit

cc: S. Tippets, C. Elias, Y. Arroyo, S. Katric, File
This comment references discussion of conformance of the proposed project with applicable General Plan policies regarding Wetlands and Riparian resources and County Ordinance regarding Tree protection. The comment states that the EIR makes conclusions that the project will not have any significant impacts in relation to conformance with these policies, while only referencing mitigation measures related to tree impacts.

For clarification, Pages 3.4-24 through 3.4-26 of the Draft EIR discuss General Plan Policies R-RC 37 through 41 with respect to Riparian Setbacks, not R-RC 31 through R-RC 40 as referenced in the comment.

Several of the General Plan policies referenced by in the comment are not applicable to the project. For example, General Plan policies R-RC 25-30 pertain to Bayland habitat that does not exist on the project site and R-RC 33 pertains to public projects. With respect to the applicable General Plan policies (R-RC 31, 32, 34-41), the EIR discusses compliance and / or and references mitigation measures for related impacts that are discussed elsewhere in the document. For example, the EIR discusses the applicable General Plan riparian setback policies (R-RC 37 & 38), and states that “the future residential development would have no impacts … within riparian setback zones.” In order to provide further clarity regarding potential environmental impacts with respect to conformance of the project with applicable Riparian / Freshwater Habitat policies, text has been added to the discussion on page 3.4-53 of the Draft EIR (see Revisions to the Draft EIR)
The County acknowledged the request and extended the comment period two days from Monday, January 14, 2013 to Wednesday, January 16, 2013.
Hi Rob,

As per our discussion this morning, CGF is requesting a 2 day extension to the Coyote Highlands DEIR comment period to end of business on Wednesday, January 16, 2013. We would appreciate additional time to adequately review and prepare comments for the CEQA document given the time constraints the recent holidays imposed.

Thank you,
Julie

Julie Hutcheson
Environmental Advocate, Committee for Green Foothills
(650) 968-7243 x339

Local, Vocal, and Effective
Committee for Green Foothills ¦ Greenfeet Blog ¦ Twitter
Our mission is to protect the open space, farmlands, and natural resources of Santa Clara and San Mateo counties through advocacy, education, and grassroots action.
January 15, 2013

Mark Connolly
Santa Clara County
70 W. Hedding Street
7th Floor, East Wing
San Jose, CA 95110-1705

Subject: Coyote Highlands 25-lot Subdivision and EIR
SCH#: 2012022008

Dear Mark Connolly:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on January 14, 2013, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse
**Document Details Report**  
State Clearinghouse Data Base

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</table>

**Lead Agency Contact**
- **Name**: Mark Connolly
- **Agency**: Santa Clara County
- **Phone**: 408 299 5786
- **Fax**
- **Address**: 70 W. Hedding Street  
  7th Floor, East Wing
- **City**: San Jose
- **State**: CA  
  **Zip**: 95110-1705

**Project Location**
- **County**: Santa Clara
- **City**: Morgan Hill
- **Region**
- **Lat / Long**
- **Cross Streets**: Maple Ave. and Carey Lane
- **Parcel No.**: 817-23-006, 817-23-009, 817-23-01
- **Township**
- **Range**
- **Section**
- **Base**

**Proximity to:**
- **Highways**: Hwy 101
- **Airports**: San Martin Airport
- **Railways**: No
- **Waterways**: No
- **Schools**: No
- **Land Use**: RR-20ac-d1 and HS-d1/Rural Residential and Hillsides

**Project Issues**: Air Quality; Biological Resources; Drainage/Absorption; Geologic/Seismic; Wetland/Riparian; Cumulative Effects; Aesthetic/Visual; Agricultural Land; Archaeologic-Historic; Noise; Recreation/Parks; Septic System; Soil Erosion/Compaction/Grading; Traffic/Circulation; Vegetation; Water Quality

**Reviewing Agencies**: Resources Agency; Department of Conservation; Department of Fish and Wildlife, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 4; Regional Water Quality Control Board, Region 2; Regional Water Quality Control Board, Region 3; Department of Toxic Substances Control; Native American Heritage Commission

**Date Received**: 11/30/2012  
**Start of Review**: 11/30/2012  
**End of Review**: 01/14/2013
The comment acknowledges that the County has complied with the State Clearinghouse review requirements for draft environmental impact reports, in accordance with the California Environmental Quality Act.
Planning Commission – December 6, 2012 – Item 10
Public Meeting comments from the public regarding the Coyote Highlands LLC/Fountain Oaks Ranch LLC Subdivision Draft Environmental Impact Report

Comments of Mr. James Frasier:

Thank you for your attention. And I left several questions on the orange sheet assuming I wouldn’t speak, and I’m looking for responses from a developer.

Here’s my comments. There’s four.

First is concerning access to the street abutting the new development. The street is known as Oak Canyon Drive and residents on that street and on an adjacent street, Jackson Oaks Drive, want to have assurance that those streets will not be used for construction access. According to the City of Morgan Hill back in 1987, they wanted to not have construction traffic on those streets and still do as well as the residents which I am one of on that street.

Second item is concerning emergency access from the development to Oak Canyon Drive and there is going to be a secured gate of one nature or another but we haven’t seen details of that gate and whether it complies with the County of Santa Clara and the City of Morgan Hill standards.

Third item, my question is: There is a Santa Clara County file 3009-74-36-10cst, 8 pages long, and I’m wondering if all of the issues on that letter have been addressed? If you need the letter, I have one here.

And, the last question is: Where can we see the latest development site drawings. We have some from a few years back, but we have not seen any more recent which may or not include the items in that 8 page letter.

And those are my only questions.
12-1 Please see response 1-1. The terminus of the new primary roadway at Oak Canyon Drive would not allow for regular through traffic and will not be used for construction access. As described in the Project Description section of the Draft EIR (page 2-34, paragraph 8) "Oak Canyon would not be used to access the project area." Narrative in this section describes construction access to the site, which will occur via Maple Avenue.

12-2 Please see response 1-1. The terminus of the new primary roadway at Oak Canyon Drive would not allow for regular through traffic. The gate / barrier used at this terminus will need to comply with County Standards, including County Fire Marshal’s Office standards regarding access requirements.

12-3 It is unclear what letter is being referenced in the comment. A letter was not submitted by the commenter for review at the December 6, 2012 Planning Commission Hearing.

12-4 Development site drawings, including the submitted Tentative Map and improvement plans, can be viewed at the public service counter at the Santa Clara County Planning Office, 70 West Hedding, East Wing, 7th Floor, San Jose 95110, referenced under File 3009-11CST. Feel free to contact Mark Connolly, (408) 299-5786, if desired, to schedule an appointment to review.
Revisions to the Draft EIR

The following changes have been made to the previously published text of the Draft EIR. These include: minor corrections made to improve writing clarity, consistency; clarifications, additions, or deletions resulting from specific responses to comments; and text changes to update information in the Draft EIR.

The changes listed below do not constitute “significant new information” as defined under Section 15088.5 (a) of the CEQA Guidelines. Instead, the text changes only clarify the existing analysis within the EIR or provide modifications to mitigation measures for previously identified significant impacts in the Draft EIR to further ensure that the impacts will be mitigated to a less than significant level.

These text revisions are organized by the chapter and page number (provided on the left-hand side of the page, below) that appear in the Draft EIR.

An explanation of the change, including identification of where it would be made, is presented in italics. The specific additions and deletions use the following conventions:
- Text deleted from the EIR is shown in strike out text.
- Text added to the EIR is shown in underline text.

Page 3.1-30 Mitigation Measure Aesthetics-3 has been modified as follows:

Mitigation Measure Aesthetics-3: To avoid visual impacts from residential structures protruding above the perceived ridgeline, the future residence developer shall develop vegetative screening plans, prepared by a licensed Landscape Architect, shall be installed for future residences. These Future Landscape plans shall include planting and irrigation plans and specifications. Plans and shall be submitted to County of Santa Clara for review and acceptance prior to building permit issuance for construction. The specific visual design goals of the plans will be to:

(a) Screen views to Homesite from adjacent residences to the project area.
(b)(a) Screen views to Homesite from Coyote Lake-Harvey Bear Ranch County Park through selective planting of native species along the eastern and southern boundaries of the project area.
(c)(b) Provide a visual backdrop (such as taller trees or hedge rows) to any building site as seen from the Santa Clara Valley floor where the allowable structure height limit would extend above existing ridgelines to avoid the skylining effect of structures.

All plants shall be watered for a minimum of 3 years from time of planting and until such time as the plants are established and can survive without additional watering. The tree species included in the applicant's proposed Design Guidelines that could be used to provide vegetative screening shall be consistent with the County's Integrated Landscape Guidelines and include, but are not limited to, the following:

- Homesite Zone
  - Fan-Tex Ash (Fraxinus velutina ‘Fan-Tex’)
  - Hinds' Black Walnut (Juglans californica hindsii)
Chinese Pistache (Pistacia chinensis)
London Plane Tree (Platanus × acerifolia 'Columbia')
California Sycamore (Platanus racemosa)
Coast Live Oak (Quercus agrifolia)

Transition Zone, Natural Lands Zone, and Open Space Lots
California Sycamore (Platanus racemosa)
Coast Live Oak (Quercus agrifolia)
Valley Oak (Quercus lobata)
Ceanothus (Ceanothus spp.)
California Buckeye (Aesculus californica)
Coyote Brush (Baccharis pilularis)

To help ensure the backdrop effects of plantings are effective when the residential construction takes place, the planting and irrigation plans shall be implemented concurrently with construction. Planted areas shall be protected during all construction activities.

Page 3.4-31 and 32 Mitigation Measures Biology 7 and 8 are modified as follows:

Mitigation Measure Biology-7: A qualified biologist shall be present during all vegetation removal, grading, and other construction activities performed in suitable habitat for CTS and CRLF. The biologist shall conduct surveys of the work area during the rainy season (between October 15 and April 15), and following rain events, prior to the initiation of work each day and shall be present during construction activities to remove any CTS or CRLF that disperse into the impact area. The biologist shall also help to ensure that work is confined to predetermined construction areas through monitoring. During the dry season (roughly April 15 to October 15), dedicated designated construction personnel trained by the qualified biologist can perform this monitoring function after all clearing and grubbing has been performed and the construction site has been surrounded by exclusion fencing.

Mitigation Measure Biology-8: If a CTS or CRLF (or any amphibian that personnel think may be of one of these species) is encountered during project activities, the following protocol shall be implemented:

(a) All work that could result in direct injury, disturbance, or harassment of the individual animal shall immediately cease.
(b) A dedicated designated project contact (e.g., a supervisor) shall be immediately notified.
(c) The dedicated designated project contact shall immediately notify USFWS and CDFG.
(d) A qualified biologist approved by USFWS and CDFG to handle the individual CTS or CRLF shall move the individual to a safe location nearby.
Mitigation Measure Biology-33 has been modified as follows:

f. A description of measures to protect nesting golden eagles, including seasonal buffers and trail closures, installation of informative signs, and other measures described in Mitigation Measures Biology-30, 31, 32, 33, and 34 below

g. A description of habitat/community and species monitoring measures on the mitigation site, including specific, objective final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc.

h. A description of the management plan’s adaptive component, including potential contingency measures for mitigation elements that do not meet performance criteria

i. A description of the preservation mechanism (e.g., a conservation easement) and the funding mechanism to ensure the long-term maintenance and monitoring of the mitigation lands

Discussion has been modified as follows:

Subdivision Improvements and Future Residences

The presence, use, and maintenance of the access roads, utilities, and future residential development would not result in the loss of additional habitat for loggerhead shrikes, grasshopper sparrows, white-tailed kites, or other protected birds. No direct take of individuals of these species would occur as a result of post-construction activities, as they are not expected to nest within developed areas. Post-construction activities of residents and guests that result in new, substantial increases in audible or visible disturbance near an active nest could potentially result in indirect impacts on nests of protected birds. Such activities include recreational activities, agricultural activities (maintaining vineyards or orchards, operating machinery), and residential activities (activity within yards and along roads) that occur within or immediately adjacent to the natural lands management areas. Any activities resulting in a new, substantial increase in audible or visible disturbance could potentially result in nest abandonment, and the loss of eggs or young as a result. However, birds that would choose to nest near the roadways, infrastructure, or residential development are expected to be habituated to these activities. Such birds would therefore tolerate the level of disturbance associated with residential human activities, thus reducing the number of nests that may be disturbed. In addition to the potential for impacts on nesting birds, the construction of 25 residences will increase the potential for bird collisions with windows and other structures associated with the residences. Although it is unknown how the homes will be configured, including how many windows will be installed, the number of individual birds that may be inadvertently killed by collision is expected to be small enough that impacts on regional populations of any given species, or on local bird communities, would not meet the standards for a significant impact. As a result, post-construction impacts to migratory birds would be less than significant.
Mitigation Measure Biology-30: For each year in which new construction will occur (subdivision improvements, new residences, new trail) surveys shall be conducted by a qualified biologist of areas within 1,000 feet of the area of new construction or within a viewshed buffer (areas visible from the construction area up to 0.5 mile) to determine the location of any new (currently unknown) golden eagle nests. This survey shall determine if the known eagles are using other nests elsewhere within the territory or whether multiple pairs of eagles are breeding on the site. This information shall inform nesting-season avoidance and minimization measures for that year. The survey will also be used to determine appropriate viewing locations of nesting eagles to be used by residents of Coyote Highlands, if proposed, per requirements described in Mitigation Measure Biology-35 below. If eagles are determined to occupy any areas, Mitigation Measures Biology-28 and Biology-29 shall also be implemented during construction, and Mitigation Measure Biology-31 shall be implemented during the post-construction period.

Mitigation Measure Biology-32. To reduce the potential for the golden eagles to abandon their nest or territory during post-construction periods with a resulting reduced reproductive success, new (i.e., not currently ongoing) maintenance activities and/or recreational trail use shall not occur within the 0.5-mile viewshed buffer zone (as determined under Mitigation Measure Biology 28) or 1,000 feet of the golden eagle nest between January 15 and August 1, or as determined by a qualified biologist based on nesting activity. Seasonal trail closures shall be implemented within these buffers. To reduce the potential for trail users to access trails within the buffer zones during closure periods, signs, gates, or barricades will be placed at the buffer limits along trails to physically discourage access within the buffer zone. Signs will be installed at these locations and other potential buffer access points explaining the purpose of the seasonal closure and describing the location(s) of appropriate viewing locations of the nest, as determined by a qualified biologist during surveys described in Mitigation Measure Biology-31. The signs, gates, and barricades will be maintained by the Homeowners’ Association and routinely inspected to ensure they remain in place during the breeding season. In addition, the Homeowners’ Association will provide annual notification to residents regarding seasonal trail closure, referencing information on the life history of golden eagles including the length of their breeding season, a discussion on their sensitivity to human disturbance, a discussion on the potential for golden eagles to prey upon pets and recommendations on how to avoid pet depredation, recommendations on how to avoid disturbance of eagles by unleashed dogs and other pets, and maps depicting the seasonal closure areas and appropriate viewing locations of the eagle nest. This information will be intended to enforce the seasonal trail closures to protect nesting eagles from disturbance while also informing Coyote Highlands residents in regards to this unique biological amenity present on the site and serve as a tool to engage residents in the conservation of this species and its habitat.
Discussion has been modified as follows:

With mitigation incorporated, the proposed project would not conflict with any local policies or ordinances protecting biological resources: (i) Tree Preservation Ordinance [Section C16], (ii) Wetland Habitat [GP Policy, R-RC 25-30], (ii) Riparian and Freshwater Habitat [GP Policy, R-RC 31-41]. (Less than significant impact with mitigation incorporated)

**Construction**

Construction activities would result in removal of 72 ordinance-sized oak woodland trees (discussed previously) and impacts to three non-native eucalyptus trees. Impacts to oak woodland trees would be mitigated through implementation of Mitigation Measure Biology-38 and a tree removal permit would not be required for the project. Construction could potential result in indirect impacts to other living trees by impacting roots or altering hydrology. Because of the conflict of such indirect tree impacts with the County’s tree protection ordinance, these impacts are potentially significant. Implementation of Mitigation Measure Biology-39 would reduce the potential conflict from construction with the County’s tree protection ordinance to a less-than-significant level.

The proposed project would comply with the County General Plan policies regarding wetlands freshwater habitats (wetlands) through implementation of mitigation measures to address wetlands impacts. Through implementation of Mitigation Measures Biology-35 and Biology-36, the proposed project would comply with freshwater wetland policies contained in the General Plan, specifically R-RC 27.

The project would comply with General Plan Riparian Policies, including R-RC 36 through R-RC 40 with respect to creek setbacks and the placement of riparian and freshwater resources within the open space areas of cluster subdivisions. All of the proposed residences and associated improvements (driveways, septic systems) are sited to meet General Plan Riparian Setback policy (R-RC 37) of 150 feet from the top of bank of the nearest creek. In several instances, the proposed new roadway for the subdivision will traverse existing creek, necessitating the removal of riparian vegetation. These proposed creek crossings are necessary to provide access to the site and have been sited to minimize riparian impacts, consistent with General Plan Policy R-RC 40. Consistent with General Plan Policy R-RC 36 & 39, all riparian not affected by the proposed subdivision improvements will be be included with the open space area, with adequate buffers from the improvements.

The proposed project would involve roadway improvements within 0.72 acre of riparian habitat. Construction of the roadway would also result in impacts within the riparian setback zone (150 feet from the riparian area). The future residential development would have no impacts to riparian areas or within riparian setback zones. Mitigation Measure Biology-39 would require replacement of impacted habitat and would reduce impacts to riparian habitat to a less-than-significant level.
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APPENDIX A
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June 21, 2012  
Project No. G1420-01A

Mr. Collier Buffington  
DB Morgan Hill, LLC  
2780 Skypark Drive, Suite 202  
Torrance, CA 90505

RE: PRELIMINARY HYDROGEOLOGIC EVALUATION  
FROM GROUND-WATER EXTRACTION  
PROPOSED COYOTE HIGHLANDS DEVELOPMENT  
SANTA CLARA COUNTY, CALIFORNIA

Dear Mr. Buffington:

In accordance with your authorization of April 25, 2012, this report presents the results of a hydrogeological evaluation over the Coyote Highlands property located roughly three miles southeast of Morgan Hill in Santa Clara County, California. This evaluation addresses, on a very preliminary basis, the ground-water resources of the area, and specifically discusses the long-term sustainability of the aquifer. Additionally, we evaluated the potential impacts on nearby domestic water supply wells that might occur from the extraction of ground water from wells at the proposed development.

PLANNED DEVELOPMENT AND WATER DEMAND

Our scope of work involved a review of available published and unpublished hydrogeologic data concerning the region. A water well location study was previously performed for the proposed development (Geoconsultants, Inc., 2004). As a result of that study, several future ground-water production well sites were located. We understand that residential and irrigation water will be supplied from three or four wells constructed at the locations of electrotelluric on-site soundings ETS-5 and ETS-7, and off-site soundings ETS-11, and possibly ETS-18, as recommended by our firm. The locations of these proposed wells are shown on the Regional Map, Figure 1.

When completed, the project will include up to 25 single-family residences constructed on the 567-acre property. Based on information provided by the Santa Clara County Department of Environmental Health, the average daily water demand is calculated to be 2.5 gallons per minute (gpm) per residence. Therefore, a maximum demand of 62.5 gpm is required for the development of 25 residences.
HYDROGEOLOGIC SETTING

Coyote Highlands includes foothills forming the eastern margin of the Santa Clara Valley. Elevations range from highs of roughly 1,300 feet along the ridge that forms the eastern boundary of the property, to lows of roughly 400 feet along the western boundary.

Geologic mapping of the region including the property has been performed by Dibblee (1973), and more recently by Pacific Geotechnical Engineering (1993). The property is underlain by semi-consolidated to consolidated materials assigned to the Santa Clara Formation. This unit primarily consists of clay, sand, and gravel with associated basaltic volcanic rock. Several fault segments associated with the Coyote Creek and the Calaveras Fault Zones traverse the property.

The Santa Clara materials generally strike parallel to the fault lines in a northwest-southeast orientation. In the immediate vicinity of the property, the materials are highly contorted and numerous landslides occur.

Ground water beneath the site occurs primarily within the sand and gravel materials, but ground water is also found within the interbedded basaltic flow rock. We estimate that the recommended well locations will need to be constructed to depths of between 550 and 700 feet, depending on the surface elevation.

HYDROLOGY

General

Although ground water is stored primarily in the sands and gravels of the Santa Clara Formation, the ultimate availability is determined by the amount of rainfall recharge on a long-term basis. Ground-water extraction in an amount over the natural replenishment of the subsurface reservoir will result in mining and overdraft. Because of limited data, a normal hydrologic balance would be misleading due to the many unknowns. Therefore, as one approach to assessing the available supply, we have evaluated rainfall and runoff data in order to estimate available recharge for the site. It is important to note that some return from septic systems and residential irrigation water will recharge the subsurface supply. However, to provide a more conservative estimate, this return flow was not included in our estimate.

Rainfall and Runoff

Coyote Highlands encompasses roughly 567 acres. Average annual direct precipitation quantities were derived from two principal sources. Long-term data for the property region was determined from a mean annual precipitation isohyetal map for the period of 1906 through 1956 (Rantz, 1971). According to this data, roughly 20 inches of rainfall falls on the property on an annualized basis. A study performed by Schaaf and Wheeler (2012) has also concluded rainfall amounts of 20 inches per year.
Since there are no perennial streams flowing in the immediate vicinity of the property, an estimate of runoff was obtained from Rantz (1974). In this analysis, roughly 3.5 inches of the annual rainfall will exit the site in the down-gradient direction. Since there is little or no up-gradient topography to influence the site, it is assumed that only the runoff away from the site impacts the ground-water hydrology.

Recharge

We have evaluated rainfall and runoff data in order to estimate available recharge to the Coyote Highlands. Since 3.5 inches of the annual rainfall becomes runoff, then only 16.5 inches is available for recharge. We estimate that two-thirds of this total or 11.0 inches is lost to evapotranspiration (ET) and near-surface retained moisture, with the remaining one-third, 5.5 inches, becoming deep percolation. Therefore, the potential recharge to the property is then calculated to be roughly 261 acre-feet per year (ac-ft/yr) (567 acres X 0.46 feet/year).

GROUND-WATER AVAILABILITY

The total recharge to the study area is roughly 261 ac-ft/yr. In order to avoid aquifer overdraft, estimates have been made as to the maximum amount of ground water that can be safely extracted from the production wells at the site. A prudent estimate of the ground-water availability in this environment is two-thirds of the annual average natural recharge. In this case, the annual available ground water from natural recharge should not exceed 174 acre-feet (261 acre-feet multiplied by 2/3), or roughly 108 gallons per minute on a continuous basis.

As indicated earlier, the maximum demand for the proposed project was calculated to be 62.5 gpm on a continuous basis. Since the projected demand is only 58 percent of the annual recharge to the property, there will be minimal impact on the regional aquifer.

POTENTIAL IMPACTS TO OFF-SITE WELLS

An inventory of known production wells within a one-mile radius of the center of the development parcel was conducted by the Santa Clara Valley Water District. Based on this inventory, the closest known well to any of the proposed new production wells lies roughly one-half mile southeast of the ETS-7 location (Figure 1). In the absence of detailed aquifer testing, it is impossible to accurately determine the impact of pumping on off-site wells. Nevertheless, given the relatively low projected yield for the ETS-7 well and the distant proximity of the closest off-site well, we believe that impacts will be minimal.
CONCLUSIONS

Based on the results of our preliminary hydrogeologic evaluation, the following conclusions have been developed.

1. The aquifer system supplying the proposed wells consists of semi-consolidated to consolidated sands and gravels.

2. Annual recharge to Coyote Highlands from rainfall averages 261 acre-feet, but production should be limited to only 174 acre-feet to avoid potential overdraft.

3. Demand calculations indicate that the net total demand for the proposed development is roughly 62.5 gpm on a continuous basis. Therefore, the expected demand is only roughly 58 percent of the available average annual recharge (108 gpm) to the site.

RECOMMENDATIONS

In light of the conclusions outlined above, the following general recommendations have been prepared.

1. New wells should be constructed at the locations of ETS-5, ETS-7, ETS-11, and optionally ETS-18 in accordance with recommendations outlined in our previous study (Geoconsultants, Inc., 2004).

2. Once the wells are completed, aquifer tests should be performed and drawdown and recovery measurements made on both the pumping well and the next closest well to determine radii of influence and maximum cones of depression.

LIMITATIONS

Geoconsultants, Inc. provides its findings, recommendations, specifications, and professional advice after preparing such information in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the field of hydrogeology. This acknowledgment is in lieu of all warranties either express or implied.

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Geoconsultants, Inc. does not guarantee nor warrant that a satisfactory project can be developed at the subject site, or warrant or guarantee approval of the project by regulatory authorities.

It has been a pleasure performing this service for you. If you have any questions regarding the data, conclusions, or recommendations, do not hesitate to call.

Sincerely,

GEOCONSULTANTS, INC.

ORIGINAL SIGNED BY

John K. Hofer
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JKH/JCW:rls
(G1426-01A.doc)
SELECTED REFERENCES


Pacific Geotechnical Engineering, 1993, Geologic map, City of Morgan Hill, sheets F-7, F-8, G-7, and H-8, scale 1 inch = 200 feet.


