

**County of Santa Clara**  
**Department of Planning and Development**  
*"People Centered Services"*

County Government Center, East Wing, 7th Floor  
 70 West Hedding Street  
 San José, CA 95110  
 Phone: (408) 299-5700  
 Website: [plandev.santaclaracounty.gov](http://plandev.santaclaracounty.gov)



## Notice of Intent to Adopt a Mitigated Negative Declaration

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

<b>File Number</b>	<b>TAZ</b>	<b>APN(s)</b>	<b>Date</b>
PLN24-118		779-08-001	9/17/2025
<b>Project Name</b>		<b>Project Type</b>	
California Avenue Two-Lot Subdivision		Minor Subdivision	
<b>Person or Agency Carrying Out Project</b>		<b>Address</b>	<b>Phone Number</b>
County of Santa Clara Department of Planning and Development		70 W Hedding St, 7 <sup>th</sup> Floor East Wing, San Jose, CA 95110	(408) 299-5795
<b>Name of Applicant</b>		<b>Address</b>	<b>Phone Number</b>
David Faria, Faria Engineering		1656 Cienaga Rd Unit 100, Hollister, CA 95023	(602) 515-7650
<b>Project Location</b>			
The subject property is in a rural area of the unincorporated Santa Clara County, outside of the Urban Service Area, in the unincorporated community of San Martin. The site is bound by California Avenue to the north, Harding Avenue to the west, and Colony Avenue to the east. State Route 101 is roughly one-mile east of the site, and the City of Morgan Hill is roughly 0.25-miles north of the site.			
<b>Project Description</b>			

The proposed project is a two-lot subdivision of a 10-gross-acre parcel into two lots (Parcel 1 and 2) of approximately five-gross-acres, each. The project site is surrounded by a mixture of agricultural and single-family residential uses. Grading the project site would involve approximately 80 cubic yards of cut and 74 cubic yards of fill on both future properties to establish the building pad for the residence and to construct a driveway on each lot. Future improvements would also include the construction of a shared well on Parcel 1, and septic system and fire protection improvements on each parcel. No tree removal is proposed.

Once the property is subdivided, Parcel 1 and Parcel 2 could be developed with a single-family residence, an accessory dwelling unit (ADU), and a junior accessory dwelling unit (JADU). Future home development would be served by a shared well and individual onsite septic systems. No construction of residences is proposed as a part of this subdivision.

### **Purpose of Notice**

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

A public hearing for the proposed project is tentatively scheduled on November 6, 2025, hosted virtually by the County Government Center at 70 W. Hedding Street, San Jose, CA 95110. Please note that the approval of a Mitigated Negative Declaration does not constitute approval of the project under consideration. The decision to approve or deny the project will be made separately.

**Public Review Period:** 30 days

**Begins:** 09/19/2025

**Ends:** 10/19/2025

Public Comments regarding the correctness, completeness, or adequacy of this negative declaration are invited and must be received on or before the above date. Such comments should be based on specific environmental concerns. Written comments should be addressed to the attention of David Horwitz, Associate Planner at the **County of Santa Clara Department of Planning and Development, County Government Center, 70 W. Hedding Street, San Jose, CA 95110, Tel: (408) 299-5700.** A file containing additional information on this project may be reviewed at the Department of Planning and Development under the file number appearing at the top of this form. For additional information regarding this project and the Mitigated Negative Declaration, please contact David Horwitz, Associate Planner at (408) 299-5795 or [david.horwitz@pln.sccgov.org](mailto:david.horwitz@pln.sccgov.org).

### **The Mitigated Negative Declaration and Initial Study may be viewed at the following**

(1) Santa Clara County Department of Planning and Development, 70 West Hedding Street, East Wing, 7<sup>th</sup> Floor, San Jose, CA 95110

(2) Planning & Development website <https://plandev.santaclaracounty.gov/services/planning-services/projects/current-planning-projects> (under “Projects” > “Current Planning Projects”).

<b>Responsible Agencies sent a copy of this document</b>		
Santa Clara Valley Habitat Agency California Department of Fish and Wildlife		
<b>Mitigation Measures included in the project to reduce potentially significant impacts to a less than significant level:</b>		
Refer to Attachment A.		
A reporting or monitoring program must be adopted for measures to mitigate significant impacts at the time the Negative Declaration is approved, in accord with the requirements of section 21081.6 of the Public Resources Code.		
<b>Prepared by:</b> David Horwitz, Associate Planner _____		
	<b>Signature</b>	<b>Date</b>
<b>Approved by:</b> Lara Tran, Senior Planner _____		
	<b>Signature</b>	<b>Date</b>

## Attachment A

Notice of Intent – Adopt a Mitigated Negative Declaration (MND)  
Two-Lot Subdivision at California Avenue, San Martin

### MITIGATION MEASURES

#### BIOLOGICAL RESOURCES

- **BIO-MIT 1: Workers Environmental Training.** A worker education program will be conducted about the special-status species that may be present at the site. The training shall consist of basic identification of each protected wildlife species that has moderate potential to occur. The program will cover the basic biology and behavior of each species, how they may be encountered in the work area, and procedures to follow when they are encountered. Any personnel joining the work crew later will receive the same training before beginning work. The penalties for non-compliance will be relayed to all project personnel. The education session will be presented by the project biologist. An educational brochure containing color photographs of all listed species in the work areas will be distributed to all employees working within the project sites. The original list of employees who attend the training sessions will be maintained by the applicant and be made available for review by the agencies upon request.
- **BIO-MIT 2: Pre-Construction Surveys.** A qualified biologist shall conduct pre-construction surveys within 48 hours before the onset of construction activities to identify any wildlife within the project area. The pre-construction survey will identify any burrows within the disturbance area to determine if burrows are suitable habitat for any special status species.
- **BIO-MIT 3: Open Trench/Hole Inspections.** All open section of trenches or holes will be inspected each morning prior to the start of work for the day and periodically during the course of the workday. If any animals are observed in a trench or hole, the on-call biologist will be called to assist all “non-sensitive” species in escaping from the bore pit or will relocate the animals to suitable habitat outside the work area. CDFW and/or USFWS will be informed if any special-status species are found. Any special-status animal will not be assisted or handled.
- **BIO-MIT 4: Open Trench/Hole Covering.** To prevent inadvertent entrapment of wildlife during construction, all excavated, steep-walled holes or trenches more than 1 foot deep shall be completely covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they will be thoroughly inspected by trapped animals.
- **BIO-MIT 5: Securing of Project Materials.** Because wildlife may take refuge in cavity-like and den-like structures and become trapped, all construction pipes, culverts, or similar structures that are stored any a construction site for one or more overnight periods will be either securely capped prior to storage or thoroughly inspected by the construction foreman/manager for these animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way.

- **BIO-MIT-6: Vehicular Inspection.** At the start of each work day, construction staff will check under the vehicles and their tires to ensure no wildlife species are utilizing the equipment as temporary shelter.
- **BIO-MIT-7: Designated Vehicular Traffic.** All project-related vehicular traffic will be restricted to established roads, construction areas, and other designated areas. These areas should be established in locations disturbed by previous activities to prevent further adverse effects.
- **BIO-MIT 8: Burrowing Owl – Conduct Habitat Surveys.** A qualified biologist will map areas with burrows (i.e., areas of highest likelihood of burrowing owl activity) and all burrows that may be occupied (as indicated by tracks, feathers, egg shell fragments, pellets, prey remain, or excrement) on the project site.

Habitat surveys in occupied nesting habitat are required in both breeding and non-breeding seasons.

This mapping will be conducted while walking transects throughout the entire project footprint. The centerlines of these transects will be no more than 50 feet apart, and the transects will vary in width to account for changes in terrain and vegetation that can preclude complete visual coverage of the area. For example, in hilly terrain with patches of tall grass, transects will be closer together, while in open areas with little vegetation they can be 50 feet apart.

- **BIO-MIT 9: Burrowing Owl - Preconstruction Surveys.** Preconstruction surveys will be required in suitable habitat is identified during the habitat survey and the project does not fully avoid impacts on the suitable habitat. Suitable habitat is considered fully avoided if the project footprint does not impinge on a 250-foot buffer around the suitable burrow.

Prior to any ground disturbance related to covered activities, a qualified biologist will conduct preconstruction surveys in all suitable habitat areas as identified during habitat surveys. The purpose of the preconstruction survey is to document the presence or absence of burrowing owls on the project site, particularly in areas within 250 feet of construction activity.

To maximize the likelihood of detecting owls, the preconstruction survey will last a minimum of 3 hours. The survey will begin 1 hour before sunrise and continue until 2 hours after sunrise (for 3 hours total) or begin 2 hours before sunset and continue until 1 hour after sunset. Additional time may be required for large project sites. A minimum of two surveys will be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed will be counted and their location will be mapped.

Surveys will conclude no more than 2 calendar days prior to construction. Therefore, the project proponent must begin surveys no more than 4 days prior to construction (2 days of surveying plus up to 2 days between surveys and construction). To avoid last-minute changes

in schedule or contracting that may occur if burrowing owls are found, the project proponent may also conduct a preliminary survey up to 14 days before construction. This preliminary survey may be counted as the first of the two required surveys as long as the second survey concludes no more than 2 calendar days in advance of construction.

- **BIO-MIT 10: Burrowing Owl – Avoidance Measures during Construction – Breeding Season.** If evidence of western burrowing owls is found during the breeding season (February 1 – August 31), the project proponent will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young (occupation includes individuals or family groups foraging on or near the site following fledging). Avoidance will include establishment of a 250-foot non-disturbance buffer zone around nests. Construction may occur outside of the 250-foot non-disturbance buffer zone. Construction may occur inside of the 250-foot non-disturbance buffer during the breeding season if:
  - the nest is not disturbed, and
  - the project proponent develops an avoidance, minimization, and monitoring plan that will be reviewed by the Habitat Agency and the Wildlife Agencies prior to project construction based on the following criteria.
    - The Habitat Agency and the Wildlife Agencies approve of the avoidance and minimization plan provided by the project proponent.
    - A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction).
    - The same qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities.
    - If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. Construction cannot resume within the 250-foot buffer until the adults and juveniles from the occupied burrows have moved out of the project site.
    - If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-disturbance buffer zone may be removed. The biologist will excavate the burrow to prevent reoccupation after receiving approval from the Wildlife Agencies.

The Habitat Agency and the Wildlife Agencies have 21 calendar days to respond to a request from the project proponent to review the proposed avoidance, minimization, and monitoring plan. If these parties do not respond within 21 calendar days, it will be presumed that they concur with the proposal and work can commence.

- **BIO-MIT 11: Burrowing Owl – Avoidance Measures during Construction – Non-Breeding Season.**

During the non-breeding season (September 1–January 31), the project proponent will establish a 250-foot non-disturbance buffer around occupied burrows as determined by a qualified biologist. Construction activities outside of this 250-foot buffer are allowed. Construction activities within the non-disturbance buffer are allowed if the following criteria are met in order to prevent owls from abandoning important overwintering sites.

- A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline foraging behavior (i.e., behavior without construction).
- The same qualified biologist monitors the owls during construction and finds no change in owl foraging behavior in response to construction activities.
- If there is any change in owl foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer.
- If the owls are gone for at least 1 week, the project proponent may request approval from the Habitat Agency that a qualified biologist excavate usable burrows to prevent owls from reoccupying the site. After all usable burrows are excavated, the buffer zone will be removed and construction may continue.

Monitoring must continue as described above for the non-breeding season as long as the burrow remains active.

- **BIO-MIT 12: Burrowing Owl – Construction Monitoring.**

Based on the avoidance, minimization, and monitoring plan developed (as required under Step 4), during construction, the non-disturbance buffer zones will be established and maintained as applicable. A qualified biologist will monitor the site consistent with the requirements described above to ensure that buffers are enforced and owls are not disturbed. The biological monitor will also conduct training of construction personnel on avoidance procedures, buffer zones, and protocols in the event that a burrowing owl enters an active construction zone.

- **BIO-MIT 13: Burrowing Owl – Passive Relocation.** Passive relocation would not be allowed under the Habitat Plan until the positive growth trend described in Section 5.4.6 of the Habitat Plan is achieved. Once this occurs, passive owl relocation may be allowed, with the approval of the Wildlife Agencies, on project sites during the non-breeding season (September 1–January 31) if the other measures described in this condition do not allow work to continue. Passive relocation would only be proposed if the burrow needed to be removed, or had the potential of collapsing (e.g., from construction activities), as a result of the covered activity.

If passive relocation is eventually allowed, a qualified biologist can passively exclude birds from their burrows during non-breeding season only by installing one-way doors in burrow

entrances. These doors will be in place for 48 hours to ensure that owls have left the burrow, and then the biologist will excavate the burrow to prevent reoccupation. Burrows will be excavated using hand tools. An escape route will be maintained at all times during excavation. This may include inserting an artificial structure into the burrow to avoid having the overburden collapse into the burrow and trap owls inside. Other methods of passive relocation, based on best available science, may be approved by the Wildlife Agencies during Habitat Plan implementation.

- **BIO-MIT 14: Burrowing Owl – Exceptions to Passive Relocation Prohibition.** Because of the relatively low numbers of burrowing owls in the study area, it is not expected that the prohibition of passive relocation will result in project delays. However, it is possible that a covered activity could not proceed due to avoidance measures for burrowing owl in this condition if owls continually persist on a site where avoidance is not feasible. In such cases, a project proponent may apply for an exception based on the following process. For this condition, the term *exception* means an allowance to conduct passive relocation of burrowing owls during the non-breeding season only when this activity is not otherwise allowed.

This exception process is necessary to allow reasonable use and development of a property based on the variety of constraints and factors that may affect the property. In situations where exceptions are granted, other portions of this condition may still apply. Exceptions will be used in a minority of cases with special circumstances that limit or restrict the ability of a landowner to fully apply the condition.

Exceptions may be requested through the standard application process described in Section 6.8 of the Habitat Plan, or through a separate request process. Private applicants must apply for a passive relocation exception through their local jurisdictions. Project proponents must develop and submit a passive relocation plan with the request for exception. The passive relocation plan must document the following.

- Owls have occupied the site for a full year without relocating voluntarily. Surveys documenting presence must be completed by a qualified biologist and results must be provided in a written report. The report should confirm that one or more individuals (i.e., unique owl[s]) were monitored for a year and that the owl(s) had used the site for a full year.
- The proposed process for relocation, including schedule for the proposed passive relocation and name of the qualified biologist.

The local jurisdiction, the Habitat Agency, and the Wildlife Agencies will meet to discuss the proposed passive relocation plan. Exceptions will be considered based on, but not limited to, the following factors.

- The parcel is equal to or less than 3 acres and is more than 1,000 feet from other suitable nesting or foraging habitat such that it is unlikely the site can sustain burrowing owls into the future.

- If the site has historically been used for nesting (within the last 3 years).
- If the site is a target for a burrowing owl temporary or permanent management agreement.

As part of the review process, the Habitat Agency and Wildlife Agencies will consider the implications of an exception on the burrowing owl population and progress toward the biological goals and objective of the Habitat Plan. A passive relocation exception will not be granted if the Habitat Agency and Wildlife Agencies determine that such an exception, as mitigated, would preclude implementation of the conservation strategy of the Habitat Plan or conflict with other applicable requirements of the Habitat Plan and local policies. The local jurisdiction or the Habitat Agency must make written findings that document these considerations and the rationale for the exception.

Additional mitigation may be required as part of an approval to implement passive relocation that is otherwise prohibited by the Habitat Plan. The need for and form of additional mitigation will be determined and approved by the Habitat Agency and Wildlife Agencies. Additional mitigation could include payment of additional fees or contribution of occupied lands to the Reserve System. Applicable fees may be imposed by the local jurisdiction for processing exception requests. Mitigation will be proportional to the impact occurring as a result of a specific eviction and will fully mitigate such evictions.

The Habitat Agency will compile a list of all exceptions granted each calendar year for inclusion in the annual report to the Wildlife Agencies.

- **BIO-MIT 15: American Badger - Pre-Construction Surveys.** During the course of the pre-construction surveys for other species, a qualified biologist shall determine the presence or absence of badgers prior to the start of construction. If badgers are found to be absent, no other mitigations for the protection of badgers shall be warranted.
- **BIO-MIT 16: American Badger - Buffer Areas.** If an active badger den is identified during pre-construction surveys within or immediately adjacent to an area subject to construction, a construction-free buffer of up to 300 feet shall be established around the den. Once the biologist has determined that badger has vacated the burrow, the burrow can be collapsed or excavated, and ground disturbance can continue.
- **BIO-MIT 17: American Badger - Natal or Reproductive Dens.** Show the burrow be determined to be a natal or reproductive den, and because badgers are known to use multiple burrows in a breeding burrow complex, a biological monitor shall be present onsite during construction activities in the vicinity of the burrows to ensure the buffer is adequate to avoid direct impact to individuals or natal/reproductive den abandonment. The monitor shall be required to be present until it is determined that young are of an independent age and construction activities would not harm individual badgers.
- **BIO-MIT 18: Nesting Birds - Pre-Construction Surveys.** If construction is scheduled during the nesting period (January 15 through August 14), a qualified wildlife biologist shall

conduct a pre-construction bird survey to confirm the presence active nests in the vicinity of proposed construction activities. The survey area will include the complete project area and adjacent areas up to 300 feet for raptors. If project construction is halted for more than 14 days during the nesting season, another survey shall be conducted to assure nests are not built within that time period.

- **BIO-MIT 19: Nesting Birds - Deferred Construction.** If active nests are encountered, the biologist will prepare and implement species-specific measures to prevent abandonment of the active nests. At a minim, construction in the vicinity of a nest's tree or burrow shall be deferred until the young birds have fledged, and a construction-disturbance within a distance determined by the biologist will be provided based on the species, visual and auditory buffers, and presence of non-project activity disturbance. Grading or other project-related disturbance in the vicinity of the nest will not be permitted until the biologist confirms that the young birds have fledged.