

Response to Comments on the 70 Nielson Street

Crockers Lockers Project

Initial Study/Mitigated Negative Declaration

SCH No. 2022070219

Prepared for:

City of Watsonville
Department of Community Development
250 Main Street
Watsonville, CA 95076

Prepared by:

MIG, Inc.
800 Hearst Ave
Berkeley, CA 94710



October 2022

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The City received two Comment letters on the 70 Nielson Street – Crockers Lockers Initial Study and Mitigated Negative Declaration (IS/MND) during the 30-day public review period, which ended on August 13, 2022, and was extended to August 26, 2022. The Commenters are listed below.

- William P. Parkin, of WITTWER PARKIN LLP representing the Watsonville Pilots Association (“WPA”)
- Erin Chappell, Regional Manager, Bay Delta Region with the CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (“CDFW”)

The written response to the two Comment letters is attached. The Comment letter is included first and the response is provided after. The Errata for the Initial Study/Mitigated Negative Declaration follows each section.

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**WPA COMMENT LETTER
Wittwer Parkin LLP
Representing the Watsonville Pilots Association (“WPA”)
August 12, 2022**

**70 Nielson Street
Crocker Lockers Project**

City of Watsonville, California

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August 12, 2022

VIA EMAIL

Justin Meek, AICP
Principal Planner
City of Watsonville
Community Development Department
Planning Division
250 Main Street
Watsonville, California 95076
justin.meek@cityofwatsonville.org

Re: Comment on Mitigated Negative Declaration for
Crocker's Lockers Self-Storage Project—70 Nielson Street (APN 015-111-49)

Dear Mr. Meek:

This law firm represents the Watsonville Pilots Association ("WPA"), one of the prevailing parties in *Watsonville Pilots Association, et al. v. City of Watsonville* (2010) 183 Cal.App.4th 1059 (*WPA I*). WPA is dedicated to protecting the safety of pilots and members of the public on the ground in and around the Watsonville Airport. WPA objects to the proposed construction of the Crocker's Lockers Self Storage project, which involves the development of six self-storage buildings, four of which would be single-story and two of which would be two-story, and a seventh two-story building, which would be a manager's building ("Project"). The Mitigated Negative Declaration ("MND") that has been prepared for this Project is inadequate as a matter of law, as it essentially ignores the Project's impacts on the Watsonville Airport and the airport safety zones. In addition, this letter is to remind the City that it does not currently have the authority to issue permits for this application as the City's General Plan does not yet comply with the Public Utilities Code as required by *WPA I*. Therefore, the Project must be denied.

I. Preparation of an Environmental Impact Report is Required for this Project

As an initial and foremost matter, courts review negative declarations favorably to challengers. Because the City has only prepared a negative declaration for the Project, rather than an EIR, WPA need only make a "fair argument" that the Project causes a significant environmental impact. Courts have firmly established that the fair argument standard is a "low threshold test." *The Pocket Protectors v. City of Sacramento* ("*Pocket Protectors*") (2004) 124 Cal.App.4th 903, 928; *No Oil Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 86; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123-1126. *John R. Lawson Rock & Oil, Inc. v. State Air Resources Bd.* (2018) 20 Cal.App.5th 77, 108- 109. "There is 'a low threshold requirement for preparation of an EIR', and a 'preference for resolving doubts in favor of environmental review.'" *Mejia v. City of Los Angeles* (2005) 130

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Cal.App.4th 322, 332. "With certain limited exceptions, a public agency must prepare an EIR whenever substantial evidence supports a fair argument that a proposed project 'may have a significant effect on the environment.'" *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1138-1139. Whether the administrative record contains "substantial evidence" in support of a "fair argument" sufficient to trigger a mandatory EIR is a question of law, not a question of fact. *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 905; *Architectural Heritage Association v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1122 (overruled in part on other grounds in *Friends of Willow Glen Trestle v. City of San Jose* (2016) 2 Cal.App.5th 457, 460). Therefore, under the fair argument standard, "deference to the agency's determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary." *Sierra Club v. County of Sonoma* (1992) 6 Cal App 4th 1307, 1318; *see also*, *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597 (rejecting an approval of a negative declaration prepared for a golf course holding that "[a]pplication of [the fair argument] standard is a question of law and deference to the agency's determination is not appropriate.") Evidence supporting a fair argument need not be overwhelming, overpowering or uncontradicted. *Friends of the Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1402. Instead, substantial evidence to support a fair argument simply means "information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." 14 Cal. Code Regs. § 15384; *Pocket Protectors, supra* 124 Cal.App.4th at 927-928; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland, supra*, 52 Cal.App.4th at 905.

A negative declaration is proper "only if project revisions would avoid or mitigate the potentially significant effects identified in an initial study 'to a point where clearly no significant effect on the environment would occur, and ... there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.'" *Mejia v. City of Los Angeles, supra*, 130 Cal.App.4th at 331. Here, the MND is an inadequate environmental document because it fails to sufficiently analyze airport-related safety and noise impacts as required by CEQA. A "negative declaration is inappropriate where the agency has failed either to provide an accurate project description or to gather information and undertake an adequate environmental analysis." *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406. As a result, the MND fails to provide the public and the decisionmakers adequate information regarding the Project's potential environmental impacts. Thus, an EIR must be prepared. *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 503.

II. The Mitigated Negative Declaration Fails to Adequately Analyze Airport-Related Impacts

WPA
Comment 1.2

The Mitigated Negative Declaration states that the Project is located within two miles of the Watsonville Municipal Airport and is within Watsonville Municipal Airport Safety Zones 2, 5, and 6. (MND, p. 69.) However, despite this acknowledgement, the Mitigated Negative Declaration glosses over the actual risk levels associated with the Project's location within these safety zones.

WPA
Comment 1.3

As the California Airport Land Use Planning Handbook ("Handbook") states that "Maintaining a high degree of safety as lands near airports are developed is clearly an important planning objective." (Handbook, Appendix F, p. F-1.) Furthermore,

While measurement of risks provides essential input to the making of public policy, it is not the only consideration. In our society, decisions about how to respond to many risks—particularly ones affecting many people or whole communities—are not the sole purview of experts. Moreover, such decisions are not based simply on technical analyses and data. The public's *perception* of risks plays a major role as well. Perception is a key component in any assessment of societal risk.

(Handbook, Appendix F, p. F-3.) However, the MND fails to truly analyze the levels of risks posed by the Project's proximity to the Watsonville Airport. "Ultimately, the decisions we—as individuals or as a society—make in response to hazards come down to a question of our tolerance for or acceptance of the risks which are known or believed to be involved."

(Handbook, Appendix F, p. F-6.) Therefore, without such information it is impossible to know the risks that are being accepted, thus thwarting the central purpose of CEQA: "The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'" *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515.

WPA
Comment 1.4

The MND fails to acknowledge that the Handbook concludes that the risk level is "High" in Safety Zone 2. Moreover, the Handbook states that "Multi-story uses" should be avoided in Safety Zone 2. The Project will include at least one two-story building in Safety Zone 2.

WPA
Comment 1.5

Furthermore, the MND takes liberties with the intensity limitations in the Handbook. The MND concludes that "The Handbook states that most non-residential buildings are not fully occupied at all times. Therefore, the Handbook allows for reducing the total occupancy using these codes by a set factor, 50% for most uses." (MND, p. 70-71.) This is an overstatement. The Handbook actually limits the 50% reduction to retail and office uses. (Handbook, p. G-1.) The Project is neither a retail nor an office use. Therefore, the MND's assumptions are incorrect.

In addition, the MND does not apply the strictest standards in the Handbook for occupancy levels. Each of the Handbook intensity limitations listed in Table 9 of the MND use the upper limit in each safety zone as stated in the Handbook. However, since Santa Cruz County is a no procedure county, the strictest standards must be applied. For instance, in Safety Zone 2, the Maximum Single Acre intensity is 50-80 people per gross acre. Table 9 uses 80 people, when the lower limit is 50 people. If the lower limit is used, then the project violates the handbook standard since Table 9 admits that in Safety Zone 2 the occupancy is 73 people per gross acre using the more conservative California Building Code standard, which must be used by the City of Watsonville here. Moreover, there is no explanation of why the MND uses the Maximum Single Acre intensity instead of the more restrictive Maximum Nonresidential Intensity with respect to the California Building Code calculations since the nonresidential intensity is stricter. Under the Maximum Nonresidential Intensity, the number of persons per gross acre is limited to 10 people.¹

The MND's discussion of potential safety hazards is not only cursory, but also entirely flawed because the City has not yet incorporated the Handbook into its General Plan, as required by the State Aeronautic Act and the holding in *WPA I*. The court in *Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, 806, held that "[s]ince consistency with the general plan is required, absence of a valid general plan, or valid relevant [] elements or components thereof, precludes enactment of zoning ordinances and the like." Thus, without a valid general plan, the City cannot conclude the Project complies with the State Aeronautics Act and the Handbook. Therefore, a fair argument exists that the Project will create a significant impact.

It also comes as no surprise that the Handbook points out "Noise is sometimes perceived to be the most significant concern generated by aircraft operations, and it can be audible for miles from an airport." (Handbook, p. xi.) Therefore, "With regard to noise and overflight, the goal of airport compatibility planning is to reduce annoyance and to minimize the number of people exposed to excessive levels of aircraft noise." (Handbook, p. xi.) The noise and overflight analysis must be done in accordance with the Handbook, which the MND does not dutifully follow.

The Mitigated Negative Declaration makes the following conclusions in its noise analysis:

¹ The range in Safety Zone 2 is 10-40 acres per gross acre in the Handbook. But again, the City must employ the strictest standard.

Table 10: Summary of Measured Short-Term Ambient Noise Levels (dBA)

Day/Site	Duration	Measured Noise Level (dBA)		
		L _{eq}	L _{min}	L _{max}
Wednesday, January 12, 2022 ^(A)				
ST-1	30 minutes	68.3	48.8	85.3
ST-2	30 minutes	60.7	47.7	82.7
(A) Source: MIG (See Appendix F)				
(B) Measurements occurred from 9:00 to 10:00 AM.				

(MND, p. 88.) As shown in the above table, “Maximum measured noise levels at both ST-1 (85.3 dBA L_{max}) and ST-2 (82.7 dBA L_{max}) were associated with aircraft approaches into Watsonville airport.” (MND, p. 33.)

While the MND states that the average noise levels at each site were under 70 dBA, the maximum noise levels at each site were over 80 dBA. Furthermore, the MND merely measures the noise levels at the Project site for 30 minutes on a Wednesday. Choosing this short amount of time on a weekday is not an accurate reflection of the actual average anticipated noise levels of the Project site. Moreover, while the MND discloses a noise level average, it does not disclose the frequency at which the Project site experienced noise levels above 75 dBA. Alarming, the Handbook states that exposure to noise levels at and above 75dBA can begin to cause hearing loss to occur. (Handbook, p. D-34.) This exposure understandably elicits a “very severe” average community reaction, and the general community attitude that “noise is likely to be the most important of all adverse aspects of the community environment.” (Handbook, Appendix D, p. D-34.) Therefore, a fair argument can be made that the Project will create a significant impact.

III. The City Cannot Issue Land Use Approvals because the General Plan is Noncompliant with the State Aeronautics Act

The City cannot approve the Project, which is within Airport Safety Zones, because the City's General Plan violates the State Aeronautics Act. The City must update its General Plan to comply with the Public Utilities Code before it can approve this Project.

The Public Utilities Code outlines requirements for the “orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are already not devoted to incompatible uses.” Pub. Util. Code § 21670(a)(2). In 2006, WPA filed a petition for writ of mandate challenging the City's adoption of an updated City General Plan (the 2030 General Plan). (Santa Cruz Superior Court Case No. 154571.) The Santa Cruz Superior Court found that the City had violated both the State Aeronautics Act and the California Environmental

Quality Act (CEQA), because, *inter alia*, the 2030 General Plan unlawfully modified Airport Safety Zone 3 and land use compatibility guidelines, and the EIR inadequately analyzed aviation impacts and traffic impacts and failed to consider a reasonable range of alternatives. The Court of Appeal upheld this judgment in *WPA I*.

The Court of Appeal explained that the Watsonville Airport is in a “no-procedure” county and that “an affected city in a no-procedure county must ‘accept’ and ‘put into effect’ the Handbook’s criteria by ‘unit[ing]’ the criteria with the city’s general plan, a very strong mandate.” *WPA I* at 1072. The Court further explained that “what we can glean from the legislative history” of the applicable “1994 amendment of Public Utilities Code Section 21670.1” is “perfectly consistent with requiring an affected city in a no-procedure county to adopt all of the Handbook’s criteria and inconsistent with allowing such city to choose to adopt only some of those criteria.” *WPA I* at 1073.

The Court of Appeal also stated that the City’s contention “lacks merit” when it claimed that “the Legislature did not intend to mandate that an affected city in a no-procedure county adopt the specific criteria in the Handbook but intended to require only that such a city adopt some subset of those criteria.” *Id.* The Court also explicitly rejected the City’s claim that “the contours of the[] zones and the nature of the compatibility criteria [both of which ‘chapter 9 of the Handbook contains’] are left to the discretion of the local agency because the criteria ‘depend on each locality’s answer to the basic questions’ about how much risk it is willing to accept [Italics added by Court.],” holding that “[t]his claim directly conflicts with the Legislature’s intent in enacting the 1994 legislation.” *WPA I* at 1076. The Court further stated that “it would defy the Legislature’s intent to conclude that the City has discretion to modify the criteria to suit itself based on the City’s own determination.” *WPA I* at 1077.

The Project cannot be approved until the City has converted the Handbook into mandatory provisions in its General Plan. State law establishes Airport Safety Zones around airports and makes compliance mandatory as to the Watsonville Airport. The WPA has successfully defended these mandatory Airport Safety Zones in Court twice to date: in *WPA I* and in *Watsonville Pilots Association v. City of Watsonville*, Case No. CV176416 (“*WPA II*”) where the Superior Court found that a revised 2030 General Plan again violated the Aeronautics Act because, among other reasons, it granted the City discretion in a no procedure county.

In fact, the City itself has admitted the lack of incorporation of the Handbook into the General Plan prohibits the City from approving development within the Airport Safety Zones. As City staff explained in a February 28, 2017, staff report for the Pajaro Valley High School Auditorium Project:

In 2010, the Court of Appeal found that the City did not comply with the SAA, because it did not include the Handbook compatibility standards in its general plan. (*Watsonville Pilots Ass’n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1079.) Santa Cruz County has been identified as being a “no procedures county.” (*Handbook*, p. 1-4.) This means that the County has not: (1) established an Airport Land Use Commission (ALUC)

(2) adopted a resolution finding “no issues” affecting any airport; or (3) established an alternative procedure for airport planning. (*Watsonville Pilots Ass’n, supra*, 183 Cal.App.4th at p. 1071.) Because of this, the county and each affected city must adopt all of the Handbook’s criteria. (*Id.* at pp. 1071-72.) The City has no discretion—it must “accept” and “put into effect” the Handbook’s criteria by “uniting” the criteria with the City’s general plan, “a very strong mandate.” (*Id.* at pp. 1072.) In short, the City is required to adopt the compatibility criteria in the Handbook as part of its general plan. (*Id.* at p. 1079.) The City is also required to include all applicable federal regulations as part of its general and specific plans. (*Handbook*, p. 1-4; Pub. Util. Code, §21670.1, subd. (e).) The City must also submit its general and specific plans to the Division of Aeronautics for review. (*Ibid.*)....

Pursuant to the September 2014 Superior Court decision, Order and Writ, the Court ordered the EIR and related approvals for the 2030 General Plan be set aside (Attachment 6). The Court also prohibited the City from using the 2030 General Plan “or basing any action on or engaging in any activity pursuant to” the 2030 General Plan or resolutions, unless and until the environmental review and the 2030 General Plan and resolutions are revised to comply with the Court’s Statement of Decision and California law. (Order and Judgment, ¶3.)....

(February 28, 2017 staff report, p. 3-4.) City Staff ultimately recommended the denial of a permit for the Pajaro Valley Haigh School Auditorium Project, explaining:

“First, the City cannot determine consistency with the 2030 General Plan. The Court requires certain contents in the City’s 2030 General Plan. **The City’s 2005 General Plan does not comply with the Court decisions.** And, the 2030 General Plan has been voided and City is prohibited from basing any action on or engaging in any activity pursuant to the 2030 General Plan until the Writ is discharged.

The Courts made clear that “the General Plan must be submitted to the Department of Aeronautics upon its adoption and before returning it to the Court.” (Statement of Decision, p. 7:3-4.) Caltrans has objected to “piecemeal” review. (December 21, 2016 letter.) Without Caltrans’ complete review and approval, the City cannot get its General Plan approved and therefore cannot make the findings of compliance with its General Plan as required by the Court.

Accordingly, the Council’s approval of the CDP/SUP amendment would be challenged in Court as a “circumvention” of the Court’s decision. This could open the City up to challenges on the return or discharge of the Writ. (See *Los Angeles Int’l Charter High Sch. v. Los Angeles Unified Sch. Dist.* (2012) 209 Cal.App.4th 1348, 1355 [petitioner opposed return on writ and appealed trial court’s discharge order]; *City of Carmel-By-The-Sea v. Board of Supervisors* (1982) 137 Cal.App.3d 964, 970 [petitioner successfully moved for order finding respondent had not complied with writ].) The Superior Court retained jurisdiction and may take all steps necessary to enforce the writ.”

Here, Caltrans has said that “[a]pproval of the use permit application and coastal development permit amendment request essentially circumvents the Superior Court’s orders and this is not acceptable.” (December 21, 2016 letter.) Caltrans is a party to the Superior Court lawsuit, so it may seek compliance with the Writ. If the City approves the amendment, Caltrans would say the City has not obeyed the Court’s order.

In summary, **the City cannot make either of the required findings to approve the CDP/SUP amendment, until the 2030 General Plan has been submitted to Caltrans and the writ of mandate has been discharged.**”

(February 28, 2017 staff report, p. 4, emphasis added.)

Notably, the City also agreed in a Joint Stipulation and Order Re Partial Return to Writ of Mandate Enabling City Approval of Athletic Field Project and Auditorium Project for Pajaro Valley High School (“Stip and Order Re Partial Return”) that both *WPA I* and *WPA II* “ordered the CITY, *inter alia*, to comply with the State Aeronautics Act and this Court’s respective Statements of Decision and to take no action on development proposals within the Airport Influence Area until the CITY has duly incorporated the provisions of the Airport Handbook into the CITY General Plan.” (Stip and Order Re Partial Return, 8:24-28.) Moreover, this Stipulation and Order also states that “the CITY remains mandated to incorporate the Airport Handbook into its General Plan as ‘nondiscretionary’ standards, and utilize the most stringent of those Airport Handbook standards....” (Stip and Order Re Partial Return, 10:13-17.)

The issues identified by City staff with regards to the Pajaro Valley Haigh School Auditorium Project remain an issue here: because the General Plan is still noncompliant with the State Aeronautics Act, no permits or any other land use approvals may be authorized at this time. See *Camp v. Board of Supervisors* (1981) 123 Cal. App. 3d 334, 353 (stating that because a subdivision map was approved “at a time when there existed no adequate general plan, the Board . . . could not have legally found the subdivision consistent with the requisite general plan and thus that approval was unlawful and must be set aside.”). Thus, without a valid general plan, the City must take the position that it will not issue permits or otherwise make new land use decisions. See also *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184-1185 (stating that a conditional use permit issued on the basis of invalid general plan is thereby itself invalid, to the extent that the “permitted use implicates a defective policy or standard in the general plan,” continuing on to state that “the scope of authority of the agency to enact a general plan and zoning ordinances and to apply them is governed by the requirements of state law. A permit action taken without compliance with the hierarchy of land use laws is *ultra vires* as to any defect implicated by the uses sought by the permit”) (emphasis added); *Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 998 (“City approval of a proposed subdivision, construction of public improvements, and private sale of subdivided lots may be enjoined for lack of consistency of the subdivision map with the general plan.”)

Again, under *WPA I*, the City Council does not have any discretion to modify the criteria set forth in the Handbook and cannot override it to approve an inconsistent project under any

Justin Meek
Re: Crocker's Locker Self-Storage
August 12, 2022
Page 9

circumstances. WPA has successfully defended these mandatory Airport Safety Zones in Court twice to date. As a result of these Court cases, the most stringent of the land use controls contained in the CDOA Handbook are applicable to the area surrounding the Watsonville Airport. The MND even acknowledges that "Santa Cruz County has been identified as a 'no procedure county' as there is only one public use airport—the Watsonville Municipal Airport...." (MND, p. 69.)

WPA requests that the City deny the adoption of the Mitigated Negative Declaration and deny the Project, as the city must first adopt a General Plan that fully complies with *WPA I* and *WPA II* and fully incorporates the Handbook in a nondiscretionary fashion in the General Plan. For the foregoing reasons, the City Council cannot approve this Project.

Pursuant to Public Resources Code § 21167(f), we request that the City forward a Notice of Determination to this office if the Project is finally approved. That section provides:

If a person has made a written request to the public agency for a copy of the notice specified in Section 21108 or 21152 prior to the date on which the agency approves or determines to carry out the project, then not later than five days from the date of the agency's action, the public agency shall deposit a written copy of the notice addressed to that person in the United States mail, first class postage prepaid.

Thank you for your consideration of these comments.

Very truly yours,
WITTWER PARKIN LLP



William P. Parkin

cc: Client

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**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (“CDFW”)
COMMENT LETTER
August 23, 2022**

**70 Nielson Street
Crocker Lockers Project**

City of Watsonville, California

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State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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August 23, 2022

Mr. Justin Meek
City of Watsonville
250 Main Street
Watsonville, CA 95076
justin.meek@cityofwatsonville.org

Subject: Crocker's Locker Project, Initial Study/Mitigated Negative Declaration,
SCH No. 2022070219, City of Watsonville, Santa Cruz County

Dear Mr. Meek:

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) prepared by the City of Watsonville (City) for the Crocker's Lockers Project (Project), located in Santa Cruz County, pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the IS/MND to inform the City, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA pursuant to CEQA Guidelines § 15386 for commenting on projects that could impact fish, plant, and wildlife resources (i.e., biological resources). CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Mr. Justin Meek
City of Watsonville
August 23, 2022
Page 2 of 7

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code, § 2080 et. seq.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for any Project activities that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are generally subject to notification requirements. CDFW, as a Responsible Agency under CEQA, would consider the CEQA document for the Project. CDFW may not execute a final LSA Agreement until it has complied with CEQA (Pub. Resources Code § 21000 et seq.) as the Responsible Agency.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION SUMMARY

Proponent: Ted Crocker

Objective: The Project would develop an existing paved parking lot into a self-storage facility which would consists of six self-storage buildings. Four of the buildings would be single-story and two would be two-story. A seventh building would be constructed as a manager's building. In total, the Project would provide 1,072 storage units and 149,796 square feet of building space. The Project would replace and relocate the existing driveway and include approximately 21 parking spaces. The Project would remove 125 trees and retain 51 trees along Airport Boulevard and Nielson Street. The Project would also include two bioretention areas and other onsite storm drainage improvements.

Timeframe: The Project would be completed within 12 months. The existing site would be demolished prior to construction of the proposed buildings.

Mr. Justin Meek
 City of Watsonville
 August 23, 2022
 Page 3 of 7

ENVIRONMENTAL SETTING AND LOCATION

The Project site is located at 70 Nielson Street on a 4.39-acre parcel (APN 015-111-49) at the corner of Airport Boulevard, across from the Watsonville Municipal Airport in Watsonville, California. The Project site is developed and consists of a paved parking lot and parking lot islands that are landscaped with ornamental trees. In addition, there is a wetland approximately 0.1 mile south of the Project site. Special-status species with the potential to occur in or near the Project site include, but are not limited to, California red-legged frog (*Rana draytonii*), federally listed as threatened and a California Species of Special Concern (SSC) and Santa Cruz tarplant (*Holocarpha macradenia*), federally listed as threatened and state listed as endangered.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those recommended by CDFW below, CDFW concludes that an IS/MND is appropriate for the Project.

COMMENT 1: Santa Cruz Tarplant

Issue: A reconnaissance level survey for Santa Cruz tarplant (*Holocarpha macradenia*) was conducted outside of the blooming period for the species, July-October, (U.S. Fish and Wildlife Service (USFWS), 2014) which may affect accurate determination of presence on-site for the species.

Evidence the impact would be significant: While the site is mostly developed with an existing paved parking lot, there is potential for the plant to occur in unpaved areas on the Project site. The Project site is directly adjacent to a known Santa Cruz tarplant population at the Watsonville Municipal Airport, which holds the largest population of Santa Cruz tarplant with 28 million individuals recorded in 1998. The number of individuals recorded has decreased since then with approximately 512,000 individual plants recorded in 2012 (USFWF, 2014). Because Santa Cruz tarplant is an annual species, the number of individuals recorded in a year is highly dependent on rainfall and other factors. Santa Cruz tarplant produces two types of seeds, ray achenes and disk achenes (USFWS, 2014). Generally, the seeds fall within the vicinity of the plant and not have a structural means for dispersal, although it is possible that some ray achenes may be dispersed long distances by animals (USWFS, 2014). Ray achenes also form lasting seed banks with seeds that remain viable for an unknown amount of time, with seeds up to 15 years old successfully germinating (USFWS, 2014).

Mr. Justin Meek
 City of Watsonville
 August 23, 2022
 Page 4 of 7

While the Biotic Report states that no special-status plants are expected to occur in the Project area due to the lack of suitable grassland habitat and regular landscaping, there is potential for the species to occur within the unpaved areas given the proximity to a large known population and longevity of the seedbank. Surveys conducted during the blooming period when the plant will be both evident and identifiable are necessary for an accurate determination of presence on site. Furthermore, since Santa Cruz tarplant is an annual species, surveys over consecutive seasons may be necessary to increase the likelihood of detection and account for variances in weather and other disturbances from year to year.

CDFW
 Comment 2.1

Santa Cruz tarplant is an endangered species under CESA (Fish & G. Code, § 2050 et seq.). Species listed under CESA may not be taken² at any time except under the provisions of a Natural Communities Conservation Plan (NCCP), (Fish & G Code § 2081.7), a Memorandum of Understanding for scientific education or management purposes (Fish & G. Code §2081, subd. (a)), or an Incidental Take Permit (Fish & G. Code § 2081 (b)).

Recommendation: CDFW recommends the City add a Mitigation Measure to include focused surveys for Santa Cruz tarplant during the blooming period of the species.

Recommended Mitigation Measure: An experienced qualified botanist, familiar with the native plant communities of Santa Cruz County, shall conduct a focused Santa Cruz tarplant survey during the blooming period of the species, from July to October. The surveys shall occur throughout the entire Project prior to the initiation of construction and the results shall be included in the Project environmental document. Surveys shall be conducted according to: *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* (CDFW 2018), available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

If Santa Cruz tarplant is detected within the Project area, additional measures may be needed to avoid, minimize, and/or mitigate potential Project impacts. Measures may include work stoppage, flagging and avoidance of occurrences, collection of propagation material, site restoration and/or obtaining an Incidental Take Permit (Fish and Game Code section 2081, subd., (b)).

COMMENT 2: Project Timing

CDFW
 Comment 2.2

Issue: While Mitigation Measure Bio-2 includes measures to perform clearing and earth moving activities during dry weather to the maximum extent practical and to stop grading work in the event of rain, more restrictive dry weather measures may be

² Take is defined in Fish & G. Code, § 86 as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

Mr. Justin Meek
City of Watsonville
August 23, 2022
Page 5 of 7

necessary to prevent impacts to California red-legged frog (*Rana draytonii*) and other native amphibians.

Evidence the impact would be significant: While there are no wetlands, streams, or lakes at the Project site, the project is located 0.1 mile from a wetland and approximately 0.5 mile from Struve Slough and Harkins Slough. While there are no documented occurrences of California red-legged frog at the unnamed wetland, it provides suitable foraging and dispersal habitat for California red-legged frog according to the Biological Resources Report for the IS/MND. Furthermore, there are multiple occurrences of California red-legged frogs within one mile of the project site (California Natural Diversity Database (CNDDDB), 2022). Amphibians are more active seasonally during wet weather conditions and in the winter. California red-legged frog often travel to upland habitat during periods of wet weather and can travel up to a mile over the course of the wet season (USFWS, 2002). Due to the proximity of wetlands and potential habitat for California red-legged frog near the site, ground disturbing work such as grading and excavating during the wet season may result in potential impacts to frogs dispersing through in search of upland habitat.

Recommendation: CDFW recommends City include a measure to further restrict work during the winter and wet weather.

Recommended Mitigation Measure: All work shall begin on or after June 15 and all work shall be completed by October 15 of each year. Project activities shall be restricted to dry weather during the work period. Project activities shall be timed with awareness of precipitation forecasts and potential increases in stream flow and amphibian activity. Project activities shall cease when the National Weather Service (NWS) 24-hour weather forecast indicates a 40 percent chance or higher of precipitation of at least 0.10-inch of precipitation. All necessary sediment and erosion control measures shall be implemented prior to the onset of precipitation.

COMMENT 3: Artificial Lighting

Issue: Additional lights would be added to the site to replace the existing pole mounted lights, including a yard light and security light, however the details of the replacement lights are not given in the IS/MND. The Project has the potential to increase the amount of artificial night lighting on the Project site which may significantly affect fish and wildlife resources.

Evidence the impact would be significant: Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication such as bird song (Miller, 2006), determining when to begin foraging (Stone et al., 2009), behavior thermoregulation (Beiswenger, 1977), and migration (Longcore and Rich, 2004).

Mr. Justin Meek
 City of Watsonville
 August 23, 2022
 Page 6 of 7

CDFW
 Comment 2.3

Recommendations to minimize significant impacts: CDFW recommends eliminating all non-essential artificial lighting. If artificial lighting is necessary, CDFW recommends avoiding or limiting the use of artificial lights during the hours of dawn and dusk, when many wildlife species are most active. CDFW also recommends that outdoor lighting be shielded, cast downward, and does not spill over onto other properties or upwards into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>) and limited to warm light colors with an output temperature of 2700 kelvin or less.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.


FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

Thank you for the opportunity to comment on the Project's IS/MND. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Serena Stumpf, Environmental Scientist, at (707) 337-1364 or Serena.Stumpf@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

 B77E9A6211EF486
 Erin Chappell
 Regional Manager
 Bay Delta Region

ec: State Clearinghouse # 2022070219

Mr. Justin Meek
City of Watsonville
August 23, 2022
Page 7 of 7

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- [USFWS] U.S. Fish and Wildlife Service. 2014. *Holocarpha macradenia* (Santa Cruz tarplant) 5-Year Review: Summary and Evaluation. U.S. Fish and Wildlife Service, Ventura, California.

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Responses to WPA Comments provided by William P. Parkin.

Response to WPA Comment 1.1:

WPA Comment noted, there are numerous cases that provide direction on thresholds for challenging CEQA documents.

The WPA Commenter correctly summarizes information from Page 69 of the IS/MND and expresses concern the IS/MND has not accurately characterized airport-related risks. As described in Responses below, the IS/MND accurately characterizes and evaluates the potential for the Project to result in airport-related safety hazards for people residing or working in the project area.

Response to WPA Comment 1.2:

WPA Comment noted, there are numerous cases that provide direction on thresholds for challenging CEQA documents. However, Section 6.9(e) of the IS/MND, Hazards and Hazardous Materials, specifically addresses safety hazards for people residing or working in the project area of projects located within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport. In accordance with Public Utilities Code (PUC) Section 21670.1(e), the preparation of an airport land use compatibility plan is not required; however, the City must submit future general and specific plans for review by the Caltrans Division of Aeronautics.

Page 71 of the IS/MND discusses the criteria for determining the acceptability of a project with respect to height, which is based upon the standards set forth in Federal Aviation Regulations (FAR) Part 77, Subpart C, Standards for Determining Obstructions to Air Navigation and applicable airport design standards published by the Federal Aviation Administration (FAA). As stated in the IS/MND, the FAA issued a letter on February 25, 2022 which determined “no hazards would result to air navigation” from the project and that the project’s structures will not exceed obstruction standards. As stated in the IS/MND, Caltrans Division of Aeronautics also reviewed the proposed project, including identifying two trees that penetrate one of the Airport’s Part 77 surfaces. As stated in the IS/MND, conditions of approval would require the project to trim or remove these trees (T15 and T17 on the existing tree plan, Sheet T1). The IS/MND correctly concluded that the project would not pose a risk to air navigation. The WPA Commenter disregards the determination of the FAA and Caltrans analysis of the proposed height.

Response to WPA Comment 1.3:

WPA Comment noted, there are numerous cases that provide direction on thresholds for challenging CEQA documents. The WPA Commenter points out that public policy related to risk may include an assessment of the “...public’s *perception* of risk...” and suggests that the MND should have included analysis of societal tolerance for, or acceptance of, risk. Because subjective considerations are debatable and require speculation, when available, the City relies on adopted objective standards to support CEQA analysis. In this instance, the IS/MND used the objective standards contained in *The California Airport Land Use Planning Handbook* (CalTrans, 2011) to consider risk tolerance and perception (see Appendix F).

Response to WPA Comment 1.4:

WPA Comment noted, there are numerous cases that provide direction on thresholds for challenging CEQA documents.

The Basic Compatibility Policies for “Safety Zone 2 – Inner Approach/Departure Zone”, which is provided on the next page, include the following:

- **Avoid:** Multi-story uses; uses with high density or intensity
- **Prohibit:** Office buildings greater than 3 stories

Nature of Risk

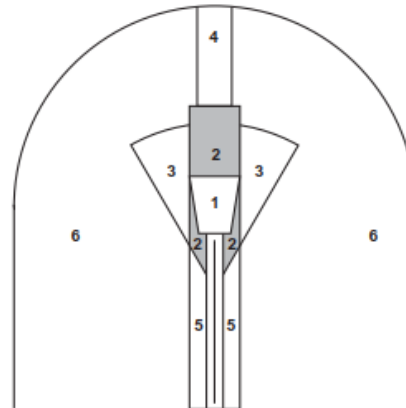
- Normal Maneuvers
 - Aircraft overflying at low altitudes on final approach and straight-out departures
- Altitude
 - Between 200 and 400 feet above runway
- Common Accident Types
 - Arrival: Similar to Zone 1, aircraft under-shooting approaches, forced short landings
 - Departure: Similar to Zone 1, emergency landing on straight-out departure
- Risk Level
 - High
 - Percentage of near-runway accidents in this zone: 8% - 22%



FINAL APPROACH

Basic Compatibility Policies

- Normally Allow
 - Agriculture; non-group recreational uses
 - Low-hazard materials storage, warehouses
 - Low-intensity light industrial uses; auto, aircraft, marine repair services
- Limit
 - Single-story office buildings
 - Nonresidential uses to activities that attract few people
- Avoid
 - All residential uses except as infill in developed areas
 - Multi-story uses; uses with high density or intensity
 - Shopping centers, most eating establishments
- Prohibit
 - Theaters, meeting halls and other assembly uses
 - Office buildings greater than 3 stories
 - Labor-intensive industrial uses
 - Children's schools, large daycare centers, hospitals, nursing homes
 - Stadiums, group recreational uses
 - Hazardous uses (e.g. aboveground bulk fuel storage)



Refer to Chapter 3 for dimensions.

	Maximum Residential Densities	Maximum Nonresidential Intensities	Maximum Single Acre
	Average number of dwelling units per gross acre	Average number of people per gross acre	2x the Average number of people per gross acre
Rural	See Note A	10 – 40	50 – 80
Suburban	1 per 10 - 20 ac.	40 – 60	80 – 120
Urban	0	60 – 80	120 – 160
Dense Urban	0	See Note B	See Note B

Note A: Maintain current zoning if less than density criteria for suburban setting.

Note B: Allow infill at up to average intensity of comparable surrounding uses.

FIGURE 4C

Safety Zone 2 – Inner Approach/Departure Zone

Because office buildings up to two stories in height are discouraged but not prohibited in Safety Zone 2, staff found that the proposed 2 story storage building would have comparable height and significantly lower population density than an office building, and would not, therefore, result in a potentially significant environmental impact. This conclusion is supported by the "Determination of No Hazard to Air Navigation" issued by the FAA on February 25, 2022.

Though not a CEQA issue, in an abundance of caution, the applicant has reduced the height of all structures, including Building C, located within Airport Safety Zone 2 from two stories to one. (As a result, please note that the maximum height of Building C has been reduced from 21'-3" to 12'-0".)

Although specific references were not provided, the WPA Commenter is correct; however, pursuant to Figure 4C Safety Zone 2 - Inner Approach/Departure Zone, on page 4-21 of the Handbook, Zone 2 specifically allows for low-hazard materials storage and warehouses, including low-intensity light industrial uses. Further, the Handbook allows for limited non-residential uses to activities that attract few people (i.e., are less than the average- and single-acre nonresidential intensity limits), and avoid multi-story uses / uses with high density or intensity. The Handbook does not prohibit two-story structures and allows parking to be a determinant for calculating occupancy loads in safety zones. The IS/MND correctly concludes the average density of the proposed project would be consistent with the Handbook standards for Zones 2, 5, and 6, as stated on page 71 of the IS/MND.

The Handbook also states (p. 4-19), "The primary focus when establishing nonresidential compatibility criteria should be on determining the types of land uses that are and are not acceptable within each safety zone . . . To set the line between compatible and incompatible, planners have turned to the concept of usage intensity – the number of people per acre – as the best common denominator by which to compare the safety compatibility of most land use types." As explained in more detail, the IS/MND has accurately determined the usage intensity of the Project site in accordance with the Handbook's recommended procedures and concluded the two-story building (Building C) that would be located within Safety Zone 2 is compatible with Watsonville Airport. The City also notes that the height of the building (Building C) planned to be within Safety Zone 2 would have had a maximum height of 21'-3" above ground level, which is less than the height of the trees and light poles along the Project's Airport Boulevard frontage.

The maximum allowable height within this district is 35 feet. The managers building, a detached, 2,360 square-foot structure would be 29 feet, the tallest structure on the site. Maximum height of the two-level storage structures would be 23'-0". Therefore, the proposed maximum height of the project would be lower than what is allowed within the district. Further, a mini-warehouse facility is a compatible use with the surrounding low-intensity, light manufacturing buildings and hospital. The project buildings range from 10'-2¼" to 23'-0" feet in height and are similar in height and scale to adjacent structures which generally consist of two-story buildings on 20,000 to 35,000 square-foot lots.

Pursuant to Figure 4C Safety Zone 2 - Inner Approach/Departure Zone on page 4-21 of the Handbook, the maximum single acre non-residential intensity limitations for a "suburban" setting is 80-120 and for a "rural" setting is lower at 50-80. The City of Watsonville is a suburban community; therefore, a threshold of 80 is used to evaluate whether a project exceeds the single-acre intensity limit for Zone 2, which is the lower limit for a suburban community like Watsonville.

Response to WPA Comment 1.5:

The WPA Commenter correctly cites the 50% reduction allowance on page G-1 of the Handbook identifies office and retail uses only. In the second example provided in Exhibit G2, involving a furniture store (assumed to consist of 50% sales floor and 50% warehouse), the 50% adjustment factor was applied to both the retail and warehouse portions of the building, thereby reducing the estimated occupancy by half. Further, the proposed storage facility is a "non-residential" building and would generate a substantially lower occupancy rate than office or retail use.

The WPA Commenter correctly identifies that the IS/MND's safety analysis adjusted the Project's maximum occupancy level (1 person / 300 square feet of gross floor area based on Building and Fire Codes) with a 50% adjustment. The WPA Commenter is incorrect that the Handbook limits this adjustment to office and retail uses. Although the Handbook discusses the 50% occupancy adjustment in the context of retail and office uses, it does not, as a rule, limit or preclude the use of an adjustment to maximum occupancy levels for any particular land use. In fact, Handbook Appendix G identifies multiple options for determining concentrations of people at a particular site, noting on p. G-1, "The most difficult part about making a people-per-acre determination is estimating the number of people likely to use a particular facility."

With regards to office and retail uses, the Handbook states (p. G-1, emphasis added), "Surveys of actual occupancy levels conducted by various agencies have indicated that many retail and office uses are generally occupied at no more than 50% of their maximum occupancy levels, *even at the busiest times of day*. Therefore, the number of people calculated for office and retail uses should usually be adjusted (50%) to reflect the actual occupancy levels before making the final people-per-acre determination. *Even with this adjustment, the CBC-based methodology typically produces intensities at the high end of the likely range.*"

The City notes neither the California Building Code nor the Handbook contain base maximum occupancy rates for self-storage facilities. The closest occupant load factors are for "accessory storage areas" and "warehouses" type buildings; the former has an occupant load factor of 1 person / 300 square feet of gross floor area, while the latter has a load factor of 1 person / 500 square feet. Accordingly, the IS/MND's maximum occupancy level of 1 person / 300 square feet of gross floor area is based on an appropriate function of space as a self-service storage facility. While another appropriate function could be "warehouse", for which the Building Code assigns a maximum occupancy level of 1 person / 500 square feet of gross floor area. Using this factor would result in a greater number of people that could be present onsite. The City notes that the Handbook itself, in providing example occupancy level calculations, applies the 50% reduction to the warehouse component of a furniture store (Handbook p. G-4, example 2), indicative that adjustments are appropriate in many cases. The adjusted maximum occupancy level for a warehouse land use (1 person / 500 square feet of gross floor area with a 50% adjustment) would result in a maximum of 44 people at the site, less than the 73 people occupancy considered in the IS/MND.

The IS/MND's estimate of the maximum occupancy of the site is based on recommended methodologies contained in the Handbook as well as project specific characteristics. Although the proposed Project may not be a traditional office or retail land use, it does provide retail self-storage facilities to the general public, and the operation of this facility is not expected to approach potential maximum occupancy levels defined by the Building Code. The IS/MND, therefore, applies intensity/occupancy adjustments that are correct, appropriate, and justified for the project.

Response to WPA Comment 1.6:

The WPA Commenter may be misreading the table within Figure 4C in the Handbook. Non-residential intensities are evaluated on an average and single acre basis. The single-acre intensity is twice (2x) the average (e.g., 80 for the single-acre and 40 for the average-acre intensity limits for zone 2). As shown or demonstrated in Table 9 in the IS/MND, 10 is the estimated number of occupants using the average intensity (people/acre) methodology and 73 is the estimated number of occupants using the average single acre intensity (people/acre) methodology.

Response to WPA Comment 1.7:

Noted on pages 53, 62 and 80, the IS/MND correctly concludes the project is consistent with the General Plan, including the land use designation and policies.

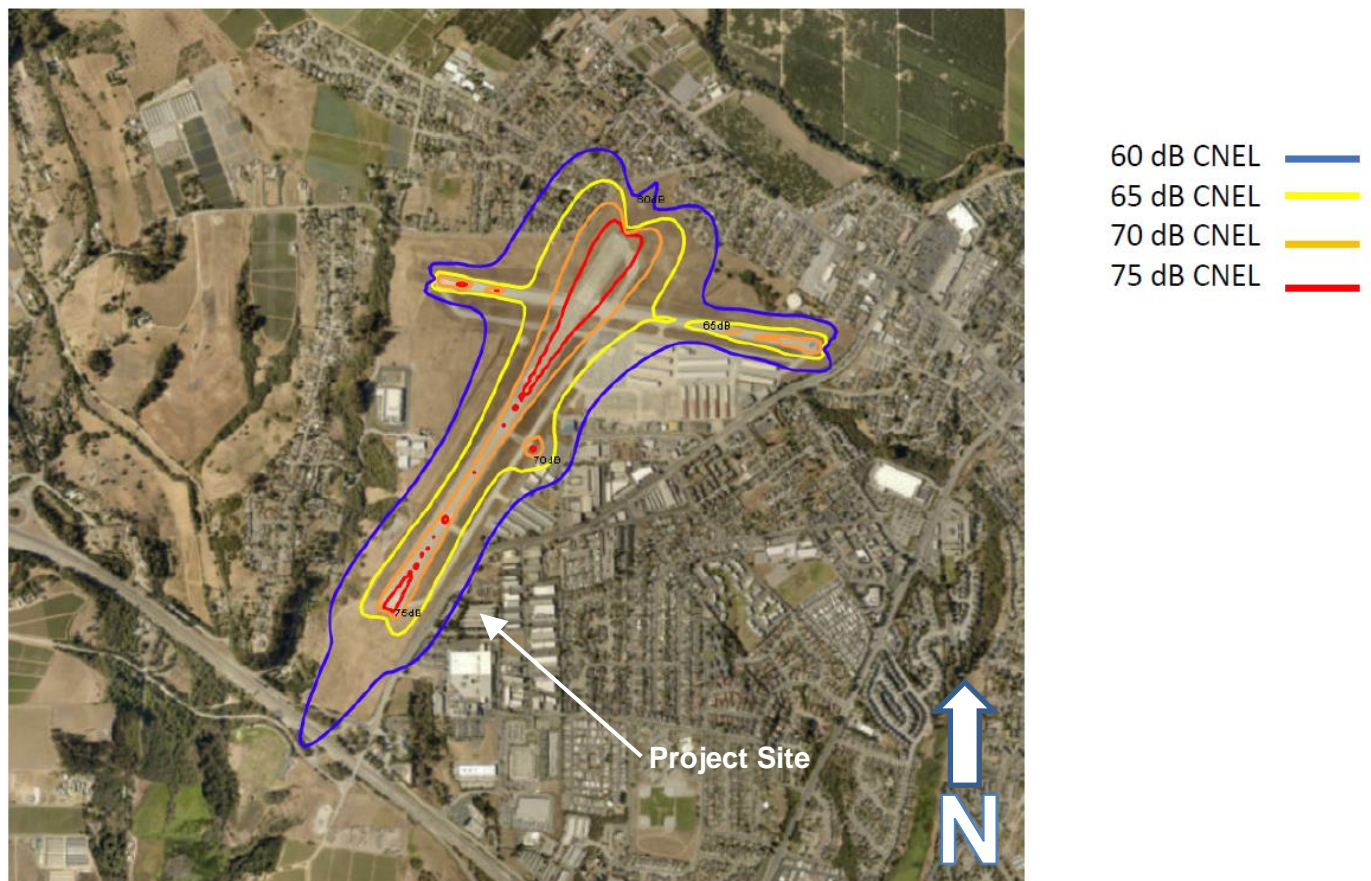
Response to WPA Comment 1.8 and 1.9:

The WPA Commenter is incorrect that the IS/MND's noise analysis is inconsistent with the Handbook for several reasons.

First, as a point of clarification, the noise monitoring conducted for the project included two short-term (30 minutes) noise monitoring sites, for a total of one-hour of noise monitoring, not 30 minutes. The IS/MND (Table 10) clearly discloses both the maximum and average ambient noise levels measured at the site during the monitoring period, and as noted by the WPA Commenter, states (p. 88) that maximum noise levels of up to 85.3 dBA were associated with aircraft approaches into Watsonville Airport. The City notes that there is no prescriptive requirement regarding the length of environmental noise measurements. The ambient noise measurements conducted for the project captured typical overflight noise levels and are considered representative of short-term noise levels at the sight. The WPA Commenter does not present evidence to indicate this is not the case.

Second, the WPA Commenter does not reflect the additional information provided on page 96 the IS/MND, including evidence that: (1) The project is located outside the airport's 65 community noise equivalent level (CNEL) contour zone for both 2016 and 2036 airport operations; (2) The project may be exposed to airport noise levels up to 60 CNEL; (3) The manager's unit, the only potential for long-term exposure, would be outside the airport's 60 CNEL noise contour; and (4) the State considers areas outside the 65 CNEL noise contour zone to have an acceptable aircraft noise exposure. A map showing the noise contours near the site is below (Aircraft Noise Monitoring Report 2015 by WJV Acoustics, Inc.)

FIGURE 3: 2016 CNEL CONTOURS



Third, the WPA Commenters reference to information in the Handbook indicating that exposure to noise level above 75 dBA is misleading because the referenced information provided on page D-34 of the

Handbook is presented in terms of 24-hour noise exposure expressed on the day-night noise level (DNL or L_{dn}) basis. Reactions based on daily noise exposure levels are not germane to the short-term noise levels presented in Table 10 of the IS. Rather, it is appropriate to compare the information on page D-34 of the Handbook to daily noise exposure levels at the site, which as documented above, would be below the acceptable 65 CNEL noise limit for airport noise exposure.¹

Finally, the Handbook does not establish a specific numeric noise limit for single-event aircraft overflights. The City notes the IS/MND discloses measured aircraft overflight noise levels at the site (p. 88), and concludes these noise levels would not be considered excessive on a short-term basis or result in subjective or interference effects or physiological harm.

The City notes the nature of the project (retail self-storage) is such that the individual visitor is unlikely to be on-site for more than several hours at a time at most, which reduces the potential for excessive noise exposure. Furthermore, as described above, the single long-term receptor at the site (manager's unit) would be exposed to airport-related noise levels below 60 CNEL, a compatible noise exposure level for this use.

For the reasons described above, the IS/MND's is consistent with the Handbook, and correctly concludes that the proposed Project would not expose people visiting, working, or residing in the project area to excessive airport-related noise levels.

Response to WPA Comment 1.10:

The WPA Comment correctly summarizes the Public Utilities Code's requirements to minimize public exposure to excessive noise and safety hazards in areas around public airports. The WPA Comment also correctly summarizes the court's decision in *Watsonville Pilots Association, et al. v. City of Watsonville* (2010) 183 Cal.App.4th 1059. However, as noted in the IS/MND, the project was evaluated based on the Handbook and concluded the project met the safety standards that apply to the project site.

Response to WPA Comment 1.11:

Comment noted.

¹ Refer to the IS/MND (p. 85) for a description of the differences in the DNL and CNEL noise exposure metrics. In practice, the difference between noise levels calculated using the DNL and CNEL metrics is usually less than 0.5 dBA.

Responses to CDFW Comments

Response to CDFW Comment 2.1:

In response to the comment regarding the Santa Cruz tarplant, the City of Watsonville will include a mitigation measure that requires a focused survey for the Santa Cruz tarplant during its blooming period (July to October). This survey shall be conducted by an experienced, qualified botanist, familiar with the native plant communities of Santa Cruz County. The surveys shall occur prior to the initiation of construction and the results shall be included in the Project environmental document. Focused surveys shall be conducted using the *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* (CDFW 2018), available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>. Errata and Revisions, for this addition follows.

Mitigation Measure BIO-2a – Pre-Activity Focused Survey for Santa Cruz Tarplant. Prior to initial ground disturbance and during the appropriate blooming period (June to October), a focused survey for Santa Cruz tarplant will be conducted by a qualified plant ecologist within suitable habitat in the project footprint and a 50-foot buffer around the project footprint, where feasible. The purpose of the survey will be to assess the presence or absence of Santa Cruz tarplant. If Santa Cruz tarplant is not found in the impact area or the identified buffer, then no further surveys or mitigation will be warranted. If Santa Cruz tarplant is found in the impact area, then Mitigation Measures BIO-1b will be implemented. The results of the survey will be documented.

Mitigation Measure BIO-2b – Avoidance Buffers. To the extent feasible, and in consultation with a qualified botanist, the project proponent will construct the project to avoid impacts on all populations of special-status plant species within the project site or within the identified buffer of the impact area. Avoided special-status plant populations will be protected by establishing and observing the identified buffer between plant populations and the impact area. All such populations located in the impact area or the identified buffer, and their associated designated avoidance areas, will be clearly depicted on any construction plans. In addition, prior to initial ground disturbance or vegetation removal, the limits of the identified buffer around special-status plants to be avoided will be flagged or fenced. The flagging will be maintained intact and in good condition throughout project-related construction activities. If avoidance is not feasible, then CDFW and/or USFWS will be consulted to determine the appropriate mitigation measures, which may include salvage and relocation of individual plants and/or off-site preservation, enhancement, and management of occupied habitat for the species.

Response to CDFW Comment 2.2:

In response to CDFW's comment regarding dry weather work, the City of Watsonville will revise the existing mitigation measure BIO-2 to state that grading activities shall be limited to the dry season between June 15th and October 15th of each year. Limiting grading to this time will minimize potential impacts to the California red-legged frog populations and other amphibians in the area. Additionally, precipitation forecasts shall be monitored throughout the construction phase. Project activities will be ceased when the National Weather Service (NWS) 24-hour weather forecast predicts a 40 percent or greater chance of precipitation of at least 0.10-inch of precipitation. Errata and Revisions, for this addition follows.

Mitigation Measure BIO-2 – Best Management Practices. The initiation of grading and any earthmoving activities shall be limited to the dry season between June 15th and October 15th of each year. Project activities will be ceased when the National Weather Service (NWS) 24-hour weather forecast predicts a 40 percent or greater chance of precipitation of at least 0.10-inch of precipitation. The project shall employ Best Management Practices (BMPs) to protect water quality per the National Pollutant Discharge Elimination System (NPDES) permit. A list of example BMPs may include the following:

- Store, handle, and dispose of construction materials and wastes properly to prevent their contact with stormwater.
- Control and prevent the discharge of all potential pollutants, including solid wastes, paints, concrete, petroleum products, chemicals, wash water or sediment, and non-stormwater discharges to storm drains and water courses.
- Avoid cleaning, fueling, or maintaining vehicles on-site, except in a designated area in which run-off is contained and treated.
- Perform clearing and earth moving activities during dry weather to the maximum extent practical.
- Remove spoils promptly and avoid stockpiling of fill materials when rain is forecast. Cover soil stockpiles and other materials with a tarp or other waterproof material during rain events.
- Trash and construction related solid wastes must be deposited into a covered receptacle to prevent contamination and dispersal by wind.
- In the event of rain, all grading work is to cease immediately.

Response to CDFW Comment 2.3:

In response to CDFW's comment regarding potential impacts of artificial lighting on wildlife, the City of Watsonville will include a mitigation measure that requires that the project eliminate non-essential exterior artificial lighting. For essential exterior artificial lighting, the project shall avoid using exterior light fixtures that produce uplighting, are unshielded, and that produce upwards light spillage to minimize the amount of light pollution. If lighting is used, the project shall use shielded lighting to cast light down or explore the use of motion-detecting light sensors to minimize lighting impacts. Additionally, essential artificial lighting shall be limited to warm light colors with an output temperature of 2700 kelvin or less. The City should refer to the International Dark Sky Association (www.darksky.org) for additional guidance. Errata and Revisions, for this addition follows.

Mitigation Measure Land Use and Planning 1 – Glare Prevention. All exterior lighting shall be directed such that lights create as little off-site glare and nuisance as is feasible. All exterior lighting fixtures shall be glare-shielded and down-facing. All exterior lighting shall be limited to warm light colors with an output temperature of 2700 kelvin.

Errata on the 70 Nielson Street

Crockers Lockers Project

Initial Study/Mitigated Negative Declaration

SCH No. 2022070219

Prepared for:

City of Watsonville
Department of Community
Development
250 Main Street
Watsonville, CA 95076

Prepared by:

MIG, Inc.
800 Hearst Ave
Berkeley, CA
94710



October 2022

Mitigation Measure BIO-2 – Best Management Practices. The initiation of grading and any earthmoving activities shall be limited to the dry season between June 15th and October 15th of each year. Project activities will be ceased when the National Weather Service (NWS) 24-hour weather forecast predicts a 40 percent or greater chance of precipitation of at least 0.10-inch of precipitation. The project shall employ Best Management Practices (BMPs) to protect water quality per the National Pollutant Discharge Elimination System (NPDES) permit. A list of example BMPs may include the following:

- Store, handle, and dispose of construction materials and wastes properly to prevent their contact with stormwater.
- Control and prevent the discharge of all potential pollutants, including solid wastes, paints, concrete, petroleum products, chemicals, wash water or sediment, and non-stormwater discharges to storm drains and water courses.
- Avoid cleaning, fueling, or maintaining vehicles on-site, except in a designated area in which run-off is contained and treated.
- Perform clearing and earth moving activities during dry weather to the maximum extent practical.
- Remove spoils promptly and avoid stockpiling of fill materials when rain is forecast. Cover soil stockpiles and other materials with a tarp or other waterproof material during rain events.
- Trash and construction related solid wastes must be deposited into a covered receptacle to prevent contamination and dispersal by wind.
- In the event of rain, all grading work is to cease immediately.

Mitigation Measure BIO-2a – Pre-Activity Focused Survey for Santa Cruz Tarplant. Prior to initial ground disturbance and during the appropriate blooming period (June to October), a focused survey for Santa Cruz tarplant will be conducted by a qualified plant ecologist within suitable habitat in the project footprint and a 50-foot buffer around the project footprint, where feasible. The purpose of the survey will be to assess the presence or absence of Santa Cruz tarplant. If Santa Cruz tarplant is not found in the impact area or the identified buffer, then no further surveys or mitigation will be warranted. If Santa Cruz tarplant is found in the impact area, then Mitigation Measures BIO-1b will be implemented. The results of the survey will be documented.

Mitigation Measure BIO-2b – Avoidance Buffers. To the extent feasible, and in consultation with a qualified botanist, the project proponent will construct the project to avoid impacts on all populations of special-status plant species within the project site or within the identified buffer of the impact area. Avoided special-status plant populations will be protected by establishing and observing the identified buffer between plant populations and the impact area. All such populations located in the impact area or the identified buffer, and their associated designated avoidance areas, will be clearly depicted on any construction plans. In addition, prior to initial ground disturbance or vegetation removal, the limits of the identified buffer around special-status plants to be avoided will be flagged or fenced. The flagging will be maintained intact and in good condition throughout project-related construction activities. If avoidance is not feasible, then CDFW and/or USFWS will be consulted to determine the appropriate mitigation measures, which may include salvage and relocation of individual plants and/or off-site preservation, enhancement, and management of occupied habitat for the species.

Mitigation Measure Land Use and Planning 1 – Glare Prevention. All exterior lighting shall be directed such that lights create as little off-site glare and nuisance as is feasible. All exterior lighting fixtures shall be glare-shielded and down-facing. All exterior lighting shall be limited to warm light colors with an output temperature of 2700 kelvin.