



# Agenda Report

**MEETING DATE:** Tuesday, January 19, 2021

**TO:** City Council

**FROM:** Suzy Merriam, Community Development Director

**SUBJECT:** Public Hearing to consider Special Use Permit with Design Review and Environmental Review (PP2019-18) to allow the establishment of a propane storage and transfer facility (aka bulk propane plant) on a 0.7± acre property located at 950 W Beach Street (APN

---

## STATEMENT OF ISSUE

The project involves the installation of a 50,000-gallon propane tank and appurtenant piping, a new railcar unloading tower, two new tank unloading stations, new asphalt-concrete (AC) paving for transporters vehicle access (e.g., bobtail propane trucks, intermediate semitrailers [WB-40]), new bollards, two new parking spaces, new fencing and gates, new lighting and security cameras, new landscaping, and new stormwater facilities. Future buildout includes the installation of four new 30,000-gallon tanks for a total expansion potential of an additional 120,000 gallons. Project entitlements consist of a Special Use Permit with Design Review and Environmental Review.

## RECOMMENDED ACTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE DENYING A SPECIAL USE PERMIT WITH DESIGN REVIEW AND ENVIRONMENTAL REVIEW (PP2019-18) TO NOT ALLOW THE ESTABLISHMENT OF A PROPANE STORAGE AND TRANSFER FACILITY (AKA BULK PROPANE PLANT) ON A 0.7± ACRE PROPERTY LOCATED AT 950 WEST BEACH STREET, WATSONVILLE, CALIFORNIA (APN 018-331-28)

OR

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE APPROVING A SPECIAL USE PERMIT WITH DESIGN REVIEW AND ENVIRONMENTAL REVIEW (PP2019-18) TO ALLOW THE ESTABLISHMENT OF A PROPANE STORAGE AND TRANSFER FACILITY (AKA BULK PROPANE PLANT) ON A 0.7± ACRE PROPERTY LOCATED AT 950 WEST BEACH STREET, WATSONVILLE, CALIFORNIA (APN 018-331-28)

OR

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE APPROVING A SPECIAL USE PERMIT WITH DESIGN REVIEW AND ENVIRONMENTAL REVIEW (PP2019-18) TO ALLOW THE ESTABLISHMENT OF A PROPANE STORAGE AND TRANSFER FACILITY (AKA BULK PROPANE PLANT) ON A 0.7± ACRE PROPERTY LOCATED AT 950 WEST BEACH STREET, WATSONVILLE, CALIFORNIA (APN 018-331-28)mit with Design Review and Environmental Review (PP2019-18) to allow the establishment of a Propane Storage and Transfer Facility (aka Bulk Propane Plant) on a 0.07± acre property located at 950 W Beach Street, Watsonville, California (APN: 018-331-28)

## **BASIC PROJECT DATA**

**Application No.:** PP2019-18

**APN:** 018-331-28 (formerly 018-331-05 and -06)

**Location:** 950 W Beach Street

**Lot Size:** 0.7± acre

**General Plan:** Industrial

**Zoning:** IG (General Industrial)

**Surrounding General Plan/Zoning:** Industrial in the IG Zoning District (south, east, and northeast) and Industrial in the Manabe-Ow Business Park Specific Plan area (west and northwest)

**Existing Use:** Vacant

**Proposed Use:** Bulk propane plant

**Surrounding Uses:** Industrial and vacant

**Flood Zone:** The site is within the 100-year floodplain with a base flood elevation of 25± feet (FEMA Flood Map Panel 0394E, Map No. 06087C0394E, revised May 16, 2012)

**CEQA Review:** The project qualifies for an infill (class 32) exemption from the provisions of the California Environmental Quality Act (CEQA) because it meets the conditions listed in Section 15332 of the State CEQA Guidelines. The project also qualifies for a “common sense” exemption because it can be seen with certainty that there is no possibility the project would have a significant effect on the environment. CEQA Guidelines § 15061(b)(3). Technical studies have been prepared that provide substantial evidence in support of this finding.

**Applicant:** Richard Kojak, Mountain Propane Service, 6576 HWY 9, Felton, CA

**Property Owner:** Richard Kojak, Mountain Propane Service, 6576 HWY 9, Felton, CA

## **BACKGROUND**

The subject site was previously owned by Venture Oil Company and contained four underground fuel storage tanks. Investigation reports indicated that the tanks were leaking, and the project site was listed as a LUST Cleanup Site by the State Water Resources Control Board. Cleanup was completed in 2014 under the review of the State Water Resources Control Board and no

further remediation actions are required—i.e., the case has been closed (Attachment 7 to the Planning Commission packet). The site has been vacant for a number of years.

Up until recently, two properties comprised the 0.7± acre site (APNs 018-331-05 & -06). According to the County Assessor's Office records, the two properties were sold by Venture Oil Company to Richard Kojak on January 9, 2017.

On June 8, 2017, Richard Kojak on behalf of Mountain Propane Service, Inc., a corporation (Mountain Propane) of Felton, California, applied for an Administrative Use Permit (PP2017-182) for temporary storage of an empty 50,000-gallon propane tank onsite. This application was not fully acted upon and expired on January 23, 2018.

On June 13, 2018, Santa Cruz County Regional Transportation Commission staff contacted City staff to inquire about a reported propane tank stored onsite. City staff visited the site on June 14, 2018, and confirmed the presence of an unpermitted storage tank (Figure 1). The same day, Code Enforcement staff issued a notice of violation, indicating that a propane tank was being stored without issuance of the required Administrative Use Permit.



**FIGURE 1** Photograph of storage tank on the subject site

Source: Staff visit (June 14, 2018)

On July 3, 2018, Mountain Propane reapplied for an Administrative Use Permit (PP2018-181) to allow the temporary storage of a 50,000-gallon propane tank located at 950-950X West Beach Street. Mountain Propane's owner, Richard Kojak, said he planned to apply for a Special Use Permit with Design Review and Environmental Review to allow the establishment of a permanent propane storage tank facility onsite.

On July 19, 2018, the Zoning Administrator approved Administrative Use Permit (PP2018-181) to allow the temporary storage of the empty 50,000-gallon propane tank located at 950-950X

West Beach Street (APNs 018-331-05 & -06). A condition of approval required that Mountain Propane apply for a Special Use Permit with Design Review and Environmental Review for the establishment of a permanent propane storage and transfer facility (aka bulk facility plant). Another condition of approval required the applicant to obtain approval of a Lot Consolidation to consolidate the two subject parcels into one.

On July 20, 2018, the Community Development Director approved Lot Consolidation (PP2018-99) of APNs 018-331-05 and 018-331-06 into one parcel. The Lot Consolidation was so temporary storage of the propane tank would not cross existing property lines. The County of Santa Cruz assigned Assessor's Parcel Number (018-331-28) to the consolidated lot.

On January 18, 2019, an application for Special Use Permit with Design Review and Environmental Review (PP2019-18) to allow the establishment of a propane storage and transfer facility (aka bulk propane plant) on a 0.7± acre property located at 950 W Beach Street (APN 018-331-28; formerly APNs 018-331-05 and -06), was filed by David Dauphin with C2G on behalf of Richard Kojak with Mountain Propane Service, applicant and property owner.

On September 1, 2020, the Planning Commission of the City of Watsonville held a public hearing to consider the request for a Special Use Permit with Design Review and Environmental Review (PP2019-18) to allow the establishment of a propane storage and transfer facility (aka bulk propane plant) at the subject site. The Planning Commission considered all written and verbal evidence regarding this application and discussed their questions and concerns about the project. The Planning Commission adopted Resolution No. 16-20 (PC), recommending the City Council deny project approval.

Countywide there are three existing permitted bulk propane storage and transfer facilities, one in Scotts Valley and two in Felton (Attachment 4).

## **PROCESS**

### Special Use Permit

Pursuant to [Section 14-16.603\(b\)](#) of the Watsonville Municipal Code (WMC), a petroleum bulk station and terminal (DLU 152) for the purpose of storage and wholesale distribution of gasoline and other petroleum-based fuels, such as propane, is allowed conditionally in the IG Zoning District with issuance of a Special Use Permit. The Planning Commission is typically the decision-making body for considering a Special Use Permit application. The Planning Commission is authorized to approve Special Use Permits in accordance with the procedures set forth in WMC Sections [14-12.509](#) through [14-12.512](#).

### Onshore Oil Facility Special Use Permit.

However, in 1990, the Council adopted an onshore oil facilities ordinance in response to potential offshore oil and gas drilling and production facilities in the Monterey Bay and the associated risks to the quality of life, the environment, and the long-term economic well-being of adjoining communities (Ordinance No. 851-90 (CM)). This ordinance requires Council approval of a request for a Special Use Permit for development involving the storing, transporting, or processing of liquid petroleum products. [WMC § 14-44.010\(b\)](#). Therefore, the Planning Commission shall act as an advisory body, making a recommendation to the City Council for

approval or denial of the Special Use Permit concerning the proposed propane storage and transfer facility (aka bulk propane plan).

The purpose of the Special Use Permit is to ensure the proper integration of uses which, because of their special nature, may be suitable only in certain locations or zoning districts or only provided that such uses are arranged or designed in a particular manner. [WMC § 14-12.500](#). This special review shall be for the purpose of determining that the proposed use is, and will continue to be, compatible with surrounding, existing, or planned uses; and for the further purpose of establishing such special conditions as may be necessary to ensure the harmonious integration and compatibility of uses in the neighborhood and with the surrounding area. [WMC § 14-12.501](#).

The Planning Commission in recommending, and the City Council in making a final decision, shall render its decision based on making findings in [WMC Section 14-12.513](#) and conditions necessary to make the use compatible with surrounding uses. If the appropriateness of the use cannot be assured at the proposed location, the application for a Special Use Permit shall be denied as being incompatible with existing uses or uses permitted by right in the district. [WMC § 14-12.510](#).

Two of the basic criteria guiding the Planning Commission in discharging its function are the “compatibility between the proposed development and adjacent development and neighborhoods” and “protection of the health, safety and general welfare of the citizens of the City.” [WMC § 14-10.800](#).

The concept of public welfare is broad and inclusive. Were the Planning Commission in recommending, and the City Council in making the final decision to determine, based on substantial evidence, that it could not make the finding that the project is compatible with adjacent development or protects public health, safety and welfare, it could not support approval of the project. The failure to find this or any one of the required findings would cause denial of the requested Special Use Permit.

#### Design Review Permit

All new construction, exterior remodeling, additions, or changes in use requiring additional parking, which involve structures used for multi-family residential, commercial, industrial or public purpose require a Design Review permit. [WMC § 14-12.400](#).

When considering applications for Design Review, the decision-making body shall evaluate the impact of the Design Review on and its compatibility with surrounding properties and neighborhoods to ensure the appropriateness of the development and make the findings set forth in [WMC Section 14-12.403](#). The findings for a Design Review Permit are the same as those required for Special Use Permits, except for the additional findings set forth in subdivision (e) of [WMC Section 14-12.403](#), which require consideration of additional design elements to minimize adverse effects of the proposed development on adjacent properties.



## Environmental Review

The California Environmental Quality Act requires local and state governments to consider the potential environmental effects of a project before making a decision on it. CEQA's purpose is to disclose the potential impacts of a project and suggest methods to minimize those impacts. Certain classes of projects, however, have been identified that do not have a significant effect on the environment, and are considered categorically exempt from the requirement for the preparation of environmental documents. [State CEQA Guidelines § 15300](#). In addition, a project is exempt from CEQA if the activity is covered by the common sense exemption (i.e., CEQA applies only to projects which have the potential for causing a significant effect on the environment). Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. [State CEQA Guidelines § 15061\(b\)\(3\)](#).

## **STANDARD OF REVIEW & APPEAL PROCESS**

The decision whether to approve this Special Use Permit with Design Review and Environmental Review is adjudicative, sometimes referred to as quasi-judicial. The City is called upon to determine whether this project complies with State law and local ordinances.

Whether a particular decision is adjudicative or legislative determines the requirements for findings to support the decision. Legislative decisions involve the adoption of broad policies applicable to many situations (for example, general plan or zoning amendments). Legislative decisions generally require few, if any, findings.

Adjudicative (or “quasi-judicial”) decisions, on the other hand, are not policy decisions. Adjudicative/quasi-judicial decisions apply already adopted policies or standards to individual cases, such as a variance or conditional use permit application. Adjudicative/quasi-judicial decisions are based on evidence and must always be supported by findings.<sup>1</sup>

The final decision before the City Council—a Special Use Permit with Design Review—is an adjudicative/quasi-judicial decision and requires findings, either for approval or for denial and be supported by substantial evidence. *Toigo v Town of Ross* (1998) 70 Cal App 4th 309

A lawsuit is required to challenge a Council's decision. A reviewing court will consider whether an adjudicative/quasi-judicial decision by the Council was supported by adequate findings. Courts scrutinize adjudicative/quasi-judicial decisions closely. An action may be overturned if the City (1) exceeded its authority, (2) failed to provide a fair hearing, or (3) or made a decision not supported by substantial evidence (also called “a prejudicial abuse of discretion”).

Another important difference between legislative and adjudicative/quasi-judicial decisions is the substantial evidence standard: in weighing evidence of what happened at the Council meeting, courts go beyond whether a decision was “reasonable” (the legislative standard). Court's reviewing adjudicative/quasi-judicial decisions look to make sure the decision is supported by

---

<sup>1</sup> Quasi-judicial decisions require the decision-making body to take evidence and use its judgment to make factual as well as legal determinations about whether a particular property or project meets the standards established by the land use ordinance.

substantial evidence. Denied applicants argue the substantial evidence does not support the decision. Cities usually assert there is substantial evidence to support the decision and rely on (1) the written words in the staff findings, (2) the statements by those presenting at the hearing, and (3) the words of the Planning Commission or Council.

## **DISCUSSION**

### Existing Site

The project site is a single 0.7± acre parcel located at 950 West Beach Street. While now vacant, the site was previously developed and has remaining impervious surfaces of pavement and concrete (Attachment 3, sheet C1.1, to the Planning Commission packet). An empty 50,000-gallon propane tank currently exists on the site. The site is bordered by a rail spur that connects to the Santa Cruz Branch Rail Line owned by the Santa Cruz County Regional Transportation Commission.<sup>2</sup> The Monterey Bay Sanctuary Scenic Trail (MBSST) Network Final Master Plan indicates that new trail will follow this rail line.<sup>3</sup> The City's Public Works Department is working on securing funding and permits to construct the trail.

The surrounding area is predominantly industrial. Adjacent and to the south and east of the project site are existing industrial businesses on land designated for industrial use. To the north and west of the project site is vacant land that is part of the Manabe-Ow Business Park Specific Plan and intended for future industrial park development. No development is currently proposed on this portion of the Specific Plan area.

Also, within the general vicinity of the site are two facilities that produce, store and/or wholesale hazardous materials (Attachment 2 to the Planning Commission packet). Agron Bionergy, LLC, operates a biodiesel manufacturing plant approximately 300 feet northeast of the site at 860 West Beach Street (APNs 018-321-01 & -02). This facility produces approximately 65,000 gallons of biodiesel a day within a 19,924± square-foot building. Biodiesel is stored temporarily in three 100,000-gallon tanks before distribution offsite. In addition, Commercial Fueling Network (CFN) operates a bulk fueling station with multiple gas and diesel pumps approximately 600 feet southeast of the site at 1164 West Beach Street (APN 018-481-04).

---

<sup>2</sup> SCCRTC website, <https://sccrtc.org/projects/rail/rail-line-purchase/> (visited on June 19, 2020)

<sup>3</sup> SCCRTC website, <https://sccrtc.org/projects/multi-modal/monterey-bay-sanctuary-scenic-trail/mbsst-master-plan/> (visited on June 26, 2020)



**FIGURE 2** Aerial view of the project site and surrounding area

Source: EagleView ConnectEmployer (2016)

Sensitive wetland habitat and residences are located to the northwest. The project site is located approximately 580 feet away from the Watsonville Slough, an estuarine habitat that supports many federal and state listed threatened and endangered species. The Watsonville Sloughs ecosystem is recognized as the largest and most significant wetland habitat between Pescadero Marsh (San Mateo County) and Elkhorn Slough (Monterey County).<sup>4</sup> The Las Brisas neighborhood borders the Watsonville Slough and is a little over 700 feet away from the project site (Attachment 2 to the Planning Commission packet).

The site and much of the surrounding area is a FEMA designated 100-year flood zone (Zone AE).

### Proposed Project

The applicant proposes to relocate the onsite 50,000-gallon propane storage tank to the middle of the new parcel to establish a propane storage and transfer facility (Attachment 3, sheet C2.1, to the Planning Commission packet). The project also includes the installation of four additional 30,000-gallon propane storage tanks in future phases, resulting in a total of 170,000 gallons of storage at project buildout (Attachment 3, sheet C0.2, to the Planning Commission packet). The

<sup>4</sup> The Watsonville Sloughs include approximately 800 acres of freshwater marsh, seasonal wetland, and estuarine habitat with six major slough branches, which drain to the Pajaro River. The slough system supports over 249 permanent and migratory bird species, five federally listed fish and wildlife species, and 16 species of special concern, including the federally threatened California red-legged frog, California species of special concern tricolored blackbird, and the federally listed endangered Santa Cruz tarplant.



tanks would cover 1,750± square feet and are 15 feet in height. Approximately 156 cubic yards of fill would be brought to the site to create a finished grade of 21 feet above mean sea level (AMSL) for installing the tanks, which together with 5± feet tall concrete piers would bring the bottom of the tank(s) to approximately 26 feet AMSL or one foot above the base flood elevation of 25± feet AMSL (Attachment 3, sheets C3.1 & C5.1, to the Planning Commission packet).

The project would use an adjacent rail line for delivering propane for storage and subsequent transfer to bobtail trucks or larger transporter trucks (i.e., intermediate semitrailers [WB-40]) for final delivery to customers. Additional site improvements include asphalt paving, bollard installation, foundation construction for the propane tanks, tank unloading stations, irrigation, landscaping, gate, and fencing installation, liquefied petroleum gas (LPG) piping and appurtenance installation, and private fire hydrant installation. A 1,076± square-foot infiltration area and three 3,525-gallon, below-ground cisterns would collect and store rainwater for irrigating the landscape area (Attachment 3, sheet C4.1, to the Planning Commission packet).

The project would be implemented in two phases, as follows:

- Phase 1 involves relocating the existing 50,000-gallon storage tank and installing the aforementioned site improvements this year (2021).
- Phase 2 involves adding 120,000 gallons of storage (in four new 30,000-gallon tanks) and would be implemented within 2-3 years, contingent on the market demand for propane.

At full buildout, the project is anticipated to generate 10 roundtrips for bobtail trucks, four daily roundtrips for passenger vehicles, and up to one heavy-duty truck trip daily. These 15 roundtrips would occur throughout the workday for the purpose of filling and distributing propane to and from the onsite storage tanks and customers.

#### Project Installation and Fire Separation Requirements

Propane storage tanks are required to be separated from nearby buildings and adjoining property. In accordance with NFPA 58, Table 6104.3, the proposed 30,000- and 50,000-gallon storage tanks must be at least 50 and 75 feet, respectively, away from the nearest building and/or property boundary (Table 1). The Site Plan and Phasing Plan indicate that the siting of the proposed tanks can maintain these distances. A condition of approval requires their installation shall be signed off by a fire protection engineer.

**TABLE 1** Minimum separation requirements for liquefied propane gas containers

Container Capacity (gallons)	Minimum separation between containers & buildings or lot lines of adjoining property boundaries		Minimum Separation between containers <sup>b,c</sup> (feet)
	Mounded or underground <sup>a</sup> (feet)	Above-ground <sup>b</sup> (feet)	
Less than 125 <sup>c,d</sup>	10	5 <sup>e</sup>	None
125 to 250	10	10	None
251 to 500	10	10	3
501 to 2,000	10	25 <sup>e,f</sup>	3
2,001 to 30,000	50	50	5

30,001 to 70,000	50	75	(0.25 of sum of diameters of adjacent containers)
70,001 to 90,000	50	100	
90,001 to 120,000	50	125	

Notes:

- a. Minimum distance for underground LP-gas containers shall be measured from the pressure relief device and the filling or liquid-level gauge vent connection at the container, except that all parts of an underground LP-gas container shall be not less than 10 feet from a building or lot line of adjoining property that can be built up.
- b. For other than installations in which the overhanging structure is 50 feet or more above the relief-valve discharge outlet. In applying the distance between buildings and ASME LP-gas containers with a water capacity of 125 gallons or more, not less than 50 percent of this horizontal distance shall also apply to all portions of the building that project more than 5 feet from the building wall and that are higher than the relief valve discharge outlet. This horizontal distance shall be measured from a point determined by projecting the outside edge of such overhanging structure vertically downward to grade or other level upon which the LP-gas container is installed. Distances to the building wall shall be not less than those prescribed in this tab.
- c. Where underground multicontainer installations are composed of individual LP-gas containers having a water capacity of 125 gallons or more, such containers shall be installed so as to provide access at their ends or sides to facilitate working with cranes or hoists.
- d. At a consumer site, if the aggregate water capacity of a multicontainer installation, comprised of individual LP-gas containers having a water capacity of less than 125 gallons, is 500 gallons or more, the minimum distance shall comply with the appropriate portion of Table 6104.3, applying the aggregate capacity rather than the capacity per LP-gas container. If more than one such installation is made, each installation shall be separated from other installations by not less than 25 feet. Minimum distances between LP-gas containers need not be applied.
- e. The following shall apply to above-ground containers installed alongside buildings: (1) LP-gas containers of less than a 125-gallon water capacity are allowed next to the building they serve where in compliance with Items 2, 3 and 4. (2) Department of Transportation (DOTn) specification LP-gas containers shall be located and installed so that the discharge from the container pressure relief device is not less than 3 feet horizontally from building openings below the level of such discharge and shall not be beneath buildings unless the space is well ventilated to the outside and is not enclosed for more than 50 percent of its perimeter. The discharge from LP-gas container pressure relief devices shall be located not less than 5 feet from exterior sources of ignition, openings into direct-vent (sealed combustion system) appliances or mechanical ventilation air intakes. (3) ASME LP-gas containers of less than a 125-gallon water capacity shall be located and installed such that the discharge from pressure relief devices shall not terminate in or beneath buildings and shall be located not less than 5 feet horizontally from building openings below the level of such discharge and not less than 5 feet from exterior sources of ignition, openings into direct vent (sealed combustion system) appliances, or mechanical ventilation air intakes. (4) The filling connection and the vent from liquid-level gauges on either DOTn or ASME LP-gas containers filled at the point of installation shall be not less than 10 feet from exterior sources of ignition, openings into direct vent (sealed combustion system) appliances or mechanical ventilation air intakes.
- f. This distance is allowed to be reduced to not less than 10 feet for a single LP-gas container of 1,200-gallon water capacity or less, provided such container is not less than 25 feet from other LP-gas containers of more than 125-gallon water capacity.

### Project Operations and Safety Measures

The propane storage tanks and piping and appurtenant equipment would be installed and maintained in accordance with the piping standards set forth in Title 8 of the California Code of Regulations [Section 536](#) under Article 7 (Compressed and Liquefied Natural Gas System). The tanks and LPG piping would be equipped with redundant safety valves and systems that are designed to prevent any major release of propane. The systems would also be equipped with low emission fittings and equipment that keeps errant propane from being released. The site would be under video monitoring when company personnel are not onsite and throughout the evening.

The transport rail and truck facilities would be operated and maintained in accordance with Title 49, Code of Federal Regulations, [Part 174](#) (Carriage by Rail) and CHP [Form 800C](#) (Vehicles Transporting Hazardous Materials).

A condition of approval requires the applicant to obtain a permit to store hazardous materials from Santa Cruz County Environmental Health prior to storing propane at the site.

### General Plan

The project site is designated Industrial on the General Plan Land Use Diagram. Categories of allowed uses for Industrial designated land include:

- whole-sale sales, storage, heavy commercial, transportation services, warehousing;
- construction, fabrication and trade shops;
- general manufacturing;
- food processing; and
- related services, businesses and uses.

The intent of the Industrial land use category is to serve the industrial needs of the community. The building intensity in these areas are permitted to have a Floor Area Ratio up to 1.50.

### General Plan Consistency

The proposed project is consistent with the following General Plan goals and policies concerning industrial land uses, land use suitability, and site improvement.

- **Goal 4.4 Industrial Land Use** – Achieve economic diversification, living wage employment, the preservation of the agricultural economic base of the Pajaro Valley, and maintain a balance among jobs, housing, and other urban land uses.
- **Policy 4.D Industrial Land Use** – The City shall promote modernization of existing industrial plants and the location of new industrial facilities on lands planned for industry in *Watsonville 2005*.
- **Implementation Measure 4.D.1 Modernization** – The City shall encourage existing industrial plants to maintain high standards for public safety and environmental quality consistent with economic feasibility. These standards include emission reduction, noise reduction, built-in fire protection, water conservation, and the safe use, storage, and disposal of hazardous materials.
- **Implementation Measure 4D.2 Design and Open Space** – The City shall require that new industrial development be designed to blend with the natural environment and incorporate adequate open space and landscaping to provide an aesthetically pleasing buffer from residential land use. Additionally, on-site recreational space for employees and resource protection for environmentally sensitive habitats shall be required, where appropriate.
- **Goal 4.7 Land Use Suitability** – Ensure that the orderly development of land for the needs of the existing and projected population within in the City limit and Sphere of Influence is based on the land's overall suitability, including: the accessibility of existing and proposed public facilities, services, and utilities, physical and financial constraints; and/or growth inducing impacts.

- **Policy 4.G Land Use Suitability** – The City shall encourage the development of urban uses on those lands best suited for urban uses and discourage it on lands unsuited for urban uses.

The proposed project would establish a propane storage and transfer facility on land designated for industrial uses. The project site is surrounded by existing industrial uses and/or vacant land intended for future industrial park development. The project would adhere to state and federal law concerning the safe transport of propane and preventing its accidental release from storage tanks.

In addition to being compatible with other industrial uses in the area, the proposed use would take advantage of the existing rail line bordering the site. Propane would be delivered by train to the site for storage and subsequent transfer to trucks for delivery to customers via arterial roadways.

While not directly abutting any residential properties, the project design includes landscaping along the property boundary facing the Santa Cruz Branch line to enhance views of the site and thereby provide an aesthetically pleasing buffer between a propane storage/transfer facility and the adjacent rail/trail corridor.

The project is not anticipated to result in growth inducing impacts, as it does not include residential development or involve any extension of roadways or other public infrastructure. In addition, the project would generate only a small amount of traffic and not be a regionally significant employer.

In summary, the proposed project, with implementation of conditions of approval, would be generally consistent with policies in the 2005 General Plan. Because general plans often contain numerous policies emphasizing differing legislative goals, a development project may be consistent with a general plan, taken as a whole, even if the project appears to be inconsistent with some of its policies. Based on a review of the General Plan's goals and policies, the proposed project is in harmony with the overall intent of the City's General Plan goals and policies, including those pertaining to industrial land uses, land use suitability, and site improvement. It is within the City Council's adjudicative authority to decide if the proposed project is consistent or inconsistent with any applicable City goals or policies. The Council would have to make findings to deny.

Although generally consistent with the aforementioned City goals and policies, the nature of the project raises concerns. Propane is an explosive petroleum-based fuel and the project is located in an industrial zone with other existing facilities that produce, store and/or wholesale large quantities of petroleum products. A manufacturing plant that produces approximately 65,000 gallons of biodiesel a day is located approximately 300 feet away. Its proximity to the project site presents a potential safety hazard. In the case of an accidental release from or failure of the proposed propane storage tank(s) that results in a fire or explosion, this in turn might result in a larger and more catastrophic fire and property damage and/or loss of life were it to spread to the nearby biodiesel plant. Under this scenario, the proposed project would be considered an incompatible land use as it would be detrimental to the public health, safety and welfare. Were



the City Council to make this determination, it must recommend denial of the Special Use Permit because it could not support making the finding that the proposed special use will not be detrimental to the public health, safety, and welfare—i.e., finding “g” set forth in [WMC Section 14-12.513](#).

### Zoning

The Zoning Ordinance implements the General Plan, regulates the future growth of the City, and promotes orderly community development.<sup>5</sup> It includes the Zoning Map, which establishes zoning districts throughout the community. The proposed project is located within the IG Zoning District.

The purpose of the IG Zoning District is to provide and protect an environment which will encourage sound industrial development. [WMC § 14-16.600](#). The regulations set forth for the IG zone are intended to facilitate industrial operations to the highest degree while protecting the district and adjacent land uses, persons, and property from excessive noise, odor, dust, dirt, smoke, vibration, heat, glare, heavy traffic, and other objectionable influences and from fire, explosion, fumes, radiation, and other hazards.

The proposed project is consistent with the list of allowable uses for and general purpose of the IG Zoning District, in that the project would allow the establishment of a *petroleum bulk station and terminal* type use (DLU 152)—a conditionally permitted use—on a property in an industrial area and protect the district and adjacent land uses by adhering to safety regulations. As previously mentioned, however, because of the potential safety hazard of the proposed use and the proximity to other facilities that produce, store and/or wholesale large quantities of petroleum products, the City Council may determine that the project is incompatible with nearby land uses and not suitable for the project site.

### Conformity with Zoning District Regulations

The proposed project is consistent with all development regulations for the IG Zoning District. Table 2 provides a summary.

**TABLE 2** Proposed project conformity with development regulations

Regulation	Standard	Proposed Project
Maximum Development Intensity (FAR) <sup>1</sup>	1.50	0.10 <sup>2</sup>
Maximum Building Height (feet) <sup>3</sup>	35	15
Minimum Building Setbacks (feet)		
Front/Exterior Side <sup>4</sup>	0	n/a <sup>6</sup>
Rear/Interior Side <sup>5</sup>	0	15 to 30 <sup>7</sup>

Notes:

1. The intensity of use of land for industrial or commercial development is described as a floor area ratio (FAR). FAR is defined as the total floor area of a building (or structure) on a lot divided by the total area of the lot. For land with an Industrial designation, the maximum FAR is 1.50.

<sup>5</sup> The General Plan and Zoning are not the same. A general plan is a set of long-term goals and policies that a community uses to guide development decisions. Although the plan establishes standards for the location and density of land uses, it does not directly regulate land use. Zoning, on the other hand, is regulatory. Under the zoning ordinance, development must comply with specific, enforceable standards such as maximum building height, minimum building setback, minimum lot size, and a list of allowable uses.

2. FAR calculation: tanks floor area ÷ site area = 2,919 sf ÷ 30,149 sf = 0.10.
3. The maximum building height permitted within the IG Zoning District is 35 feet, except as may be approved by exception by Special Use Permit, pursuant to WMC § 14-16.604(c).
4. There is no minimum front and exterior side yard setback requirement for buildings or structures within the IG Zoning District, pursuant to WMC § 14-16.604(b).
5. There are no required interior side or rear yard setbacks, unless when the property abuts the boundary of any other zoning district, then not less than the minimum yard required to the adjacent yard in said abutting zoning district.
6. The site does not abut a street and is over 200 feet from W Beach Street (Attachment 3, Site Plan Access, sheet C2.2.).
7. The proposed tanks are located towards the middle of the site and range from 15 to 30 feet from the interior side and rear property lines (Attachment 3, Phasing Plan, sheet C0.2).

### Vehicle Access/Circulation

The project does not involve the construction of a new access road or alteration of nearby roadways. The project site is currently accessed via an existing driveway off West Beach Street and 30' private right-of-way across the properties at 890 and 1000 West Beach Street (Attachment 3, sheet C2.2; Attachment 4 to the Planning Commission packet). A secondary access is provided from a driveway/road located near the Industrial Road/West Beach Street intersection, which parallels the railroad spur that runs to the site. Nearby primary roadways that may be used to travel to and from the project site include West Beach Street, Industrial Road, and Riverside Drive (SR 129). These roadways are designated major or minor arterials in the City's General Plan and are intended to move large to medium volumes of traffic within an urbanized area and provide freeway access. These roadways can accommodate the 15 trips generated by the project, and no roadway improvements, traffic control devices, or access restrictions to control or divert traffic traveling to and from the site are needed.

### Parking

No parking is required for the proposed project as employees of Mountain Propane would visit the site only temporarily and not be located permanently onsite. The project does involve constructing a warehouse building or structure with an office space for employee use and, therefore, does not trigger the parking requirement of 1 space per each employee for a *petroleum bulk station and terminal* type use (DLU 152), pursuant to [WMC Section 14-17.401\(f\)](#). Employees of the bulk propane plant would primarily visit the site by truck for the purpose of transferring propane to and from the storage tanks and delivering it to customers; occasional employee trips by passenger vehicle may use the two parking spaces provided.

### Landscaping

The project involves installing new landscaping along the rear property line bordered by the Santa Cruz Branch Rail Line (Attachment 3, sheet C2.1, to the Planning Commission packet). The proposed plant list includes a mix of grasses, groundcovers, shrubs and trees, including blue fescue (*festuca ovina 'glauca'*), giant ryegrass (*elymus condensatus*), salt grass (*distichlis spicata*), common rush (*juncus patens*), society garlic (*tulbaghia violacea*), winter creeper (*euonymus fortunei 'emerald gaiety'*), Japanese barberry (*berberis thunbergii 'atropurpurea'*), escallonia (*escallonia rubra*), Pacific wax myrtle (*myrica californica*), and crape myrtle (*lagerstroemia hybrid 'tuscarora'*). The proposed landscape area is 10 feet in width and would enhance the public view of the site from the rail/trail corridor.

All proposed plantings have low to moderate water demands and would be irrigated using a drip irrigation system. A condition of approval requires that the landscaping and irrigation design

comply with the California Model Water Efficient Landscape Ordinance, in accordance with [WMC Section 6-3.801](#).

In addition, a condition of approval requires that all plants be maintained in a healthy and growing condition. Therefore, if there is inadequate precipitation to fill the cisterns for meeting the irrigation demand, the property owner shall be responsible for trucking water to the site to fill the cisterns to full capacity and ensure they can provide an adequate water supply for irrigating landscaped areas.

#### Fencing

The project includes adding new fencing and gates. A 50-foot wide (double leaf) sliding gate would be installed at the main entrance to the site with cyclone fencing 6 feet in height on either side to connect to existing fencing nearby. An 8-foot high black “no-climb” metal fence and 12-foot wide swing gate are proposed along the rear property line bordering the Santa Cruz Branch Line (Attachment 3, sheet C2.1, to the Planning Commission packet). All fencing along the entire perimeter would include barbed wire for security (Attachment 3, sheets C2.3 and C6.1, to the Planning Commission packet).

#### Lighting/Visual Impact

Nighttime illumination has the potential to change ambient lighting conditions and create a visual nuisance or hazard. The impact of nighttime lighting depends upon the type of use affected, the proximity to the affected use, the intensity of specific lighting, and the background or ambient level of the combined nighttime lighting. Nighttime ambient light levels may vary considerably depending upon the age, condition, and abundance of point-of-light sources present in a particular view. The use of exterior lighting for security and aesthetic illumination of architectural features may contribute substantially to ambient nighttime lighting conditions.

Spillover of light onto adjacent properties (“light trespass”) may interfere with certain activities including vision, sleep, privacy and general enjoyment of the natural nighttime condition. Light sensitive uses include residential, some commercial and institutional uses and natural areas. Changes in nighttime lighting may significantly impact sensitive land uses if a project increases ambient lighting conditions beyond its property line and project lighting routinely spills over into adjacent light-sensitive land use areas.

The proposed project includes the installation of five pole-mounted light fixtures and security cameras. As shown on the Security and Lighting Plan, they are located along the perimeter of the site to illuminate the propane tanks and entrances and deter trespassing (Attachment 3, sheet C2.3, to the Planning Commission packet).

The project site is located in an industrial area and is not next to any light-sensitive land uses. The project site is approximately 580 feet away from the Watsonville Slough. The nearest residence is over 700 feet to the northwest of the site. Therefore, the project is not anticipated to create a glare nuisance.

### Drainage

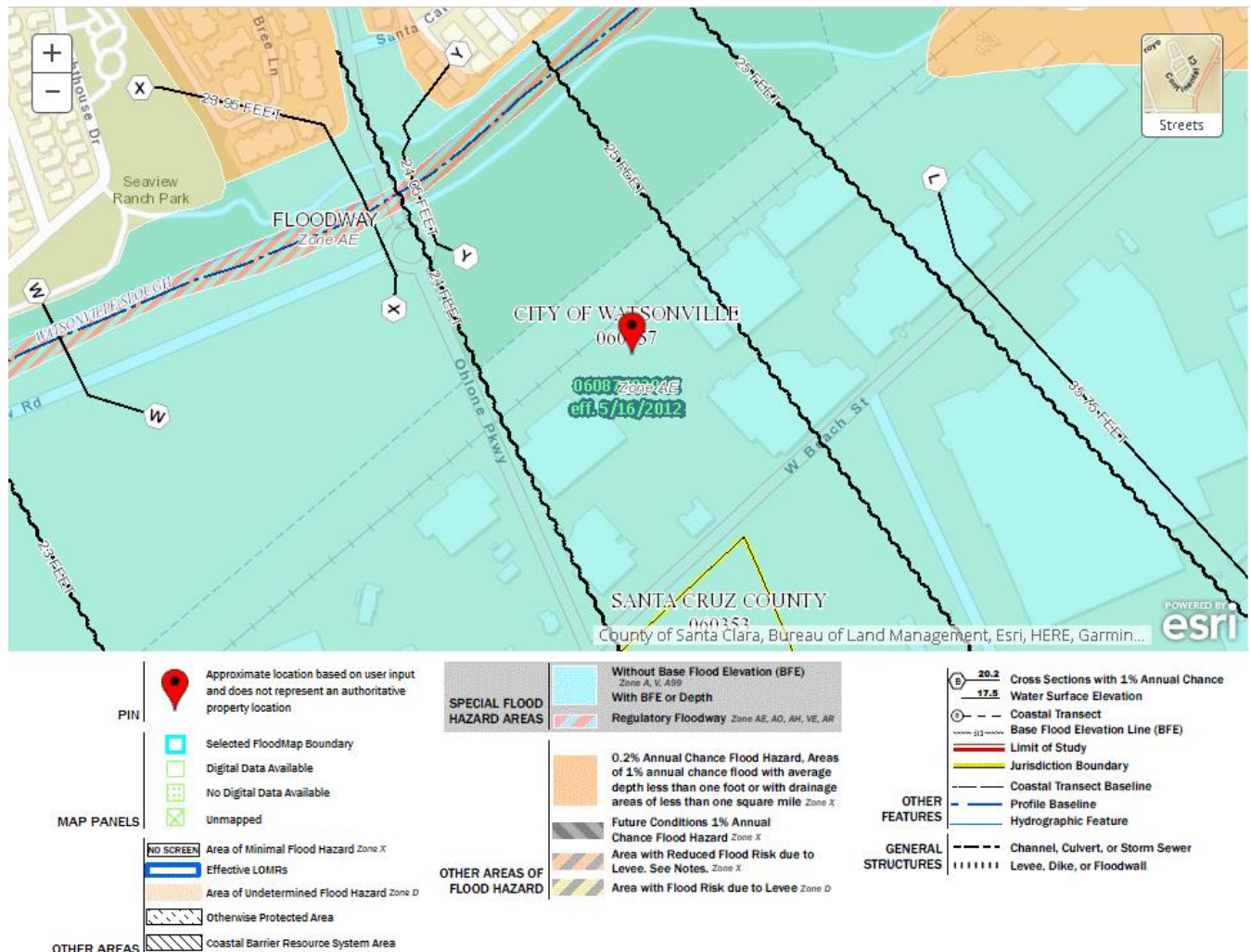
In 2014, the City adopted post-construction stormwater management requirements (PCRs) for applicable new development and redevelopment construction projects (Ordinance No. 1299-14; Resolution No. 4-14). [WMC § 6-3.535](#). The project must comply with the PCRs. The primary objective of the PCRs is to ensure the reduction of pollutant discharges to the maximum extent possible and prevent stormwater runoff from causing or contributing to a violation of water quality standards. The PCRs categorize projects into four primary tiers based mainly on the net increase in impervious surfaces that would result from a project (i.e., the amount of new and replaced impervious surfaces). Each PCR tier is linked to increasingly stringent performance requirements for stormwater management and treatment. Each PCR tier is subject to the performance requirements of that tier, plus the performance requirements of the lower tiers, as applicable. Attachment 3 in the Planning Commission packet provides a summary of these PCR tiers and their associated performance requirements for stormwater management and treatment.

The proposed project includes the removal of 7,617± square feet of pavement and concrete and the installation of 4,780± square feet of pavement and, therefore, is a PCR tier 2 type project, as it would create and/or replace between 5,000 and 15,000 square feet of impervious surfaces on the project site. As such, the project is subject to compliance with the performance requirements of PCR tier 1 and 2. The project plans include a preliminary Grading Plan and preliminary Site Utility Plan (Attachment 3, sheet C3.1 & C4.1, to the Planning Commission packet) and Storm Water Control Plan. As shown on these plans, proposed drainage facilities and post-construction features include dividing the site into three drainage management areas (DMAs), directing runoff to the infiltration pit, and providing three underground storage cisterns. These drainage management features are intended to control the flow rate and pollutant load to pre-project levels.

### Flood Hazard Prevention

The project site is in a Federal Emergency Management Agency (FEMA) flood zone. As shown on Figure 3, the entire project site is within FEMA Zone AE and therefore is in an area prone to flooding. Zone AE represents the 100-year floodplain with an established base flood elevation of approximately 25 feet AMSL. As such, the project must minimize potential flood damage by elevating the proposed storage tanks. In compliance with the City's provisions for flood hazard reduction, codified in [WMC Section 9-2.500](#), the tanks would be elevated on concrete piers to an elevation of 26± feet AMSL and thereby provide a one-foot freeboard above the base flood elevation (Attachment 3, sheets C3.1 & C5.1, to the Planning Commission packet).





**FIGURE 3 FEMA flood zone map**

Source: FEMA Flood Map Service Center, Flood Map no. 06087C0394E (05/16/2012)

In accordance with [WMC Section 9-2.400](#), a condition of approval requires the applicant to obtain a Floodplain Development Permit before a building permit will be issued.

### Environmental Review

The proposed project is exempt from the California Environmental Quality Act (CEQA), in that the project meets the conditions listed in Section 15332 of the State CEQA Guidelines and, further, may be considered covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and it can be seen with certainty that there is no possibility that the project would have a significant effect on the environment. [CEQA Guidelines § 15061\(b\)\(3\)](#).

Pursuant to Section 15332 of the State CEQA Guidelines, projects characterized as in-fill development meeting the following conditions are considered exempt:

- The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;

- The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- The project site has no value as habitat for endangered, rare or threatened species.
- Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- The site can be adequately served by all required utilities and public services.

The project is located within the city limits surrounded by industrial or vacant land uses on land designated for industrial development. According to a biotic resources report prepared for project, the entire site is categorized as developed or disturbed and does not provide suitable habitat for special status species. The anticipated 15 trips/day generated by the project is not expected to result in increased traffic congestion or significant delay(s) upon existing local or regional roadways, change the level of service on the surrounding roadways, result in a significant vehicle miles traveled (VMT) increase, or necessitate roadway improvements or expansion. According to an air quality analysis, the project would not result in air quality or greenhouse gas emissions that would exceed applicable thresholds. Utilities and public services exist and are available. As such, the project qualifies for an infill (class 32) categorical exemption.

To confirm whether or not the “common sense” exemption applies, a review was conducted of the following five environmental topics based on the questions outlined in CEQA Guidelines Appendix G, Environmental Checklist Form:

- Air Quality/Greenhouse Gases
- Archeological/Cultural Resources
- Biological Resources
- Hazardous Materials
- Traffic/Transportation

Results from this review are documented in technical memoranda (Attachment 6 to the Planning Commission packet). The analyses all conclude that the project would have either “no impact” or a “less than significant impact” on the environment as outlined in Appendix G of the CEQA Guidelines. No mitigation measures are recommended or required to reduce potential impacts to a less than significant level for any of the environmental topics analyzed. Therefore, it is clear, based on the evidence on the record, that the project can be considered exempt from CEQA under Section 15061(b)(3)—the “common sense” exemption—as it can be seen with certainty that there is no possibility that the activity (project) in question would have a significant effect on the environment requiring further review and mitigation.

#### Best Management Practices and Avoidance Measures

Where applicable, the technical memoranda provided recommended best management practices and avoidance measures. All recommended measures are included as conditions of approval, including taking appropriate precautions if contaminated soils are encountered during excavation activities, obtaining a hazardous materials storage permit from Santa Cruz County Environmental Health, conducting a preconstruction surveys for California red-legged frogs, Western pond turtle, nesting birds and special status plants, presenting a construction education program by a qualified biologist for all construction workers and site visitors before the start of

construction, and installing fencing to exclude special status species during construction activities.

## **CONCLUSION**

Approval of the Special Use Permit with Design Review and Environmental Review (PP2019-18), subject to the recommended conditions would allow the establishment of a propane storage and transfer facility (aka bulk propane plant) on a 0.7± acre property located at 950 W Beach Street (APN 018-331-28; formerly APNs 018-331-05 and -06). The project is consistent with certain General Plan goals and policies regarding industrial land uses, and a *petroleum bulk station and terminal* type use is a conditionally permitted use in the IG Zoning District. However, the project may be considered incompatible with existing nearby industrial uses that involve the production, storage and/or wholesaling of hazardous materials (e.g., biodiesel). While the project may not be subject to further environmental review per CEQA, the City Council may find that the facility may pose a public health and safety hazard.

## **STRATEGIC PLAN**

The purpose of the City of Watsonville's 2018-2020 Strategic Plan is to help the City prioritize its efforts, allocating both fiscal and human resources to achieve a shared vision and goals. The 2018-20 Strategic Plan identifies six goals, concerning housing, fiscal health, infrastructure and environment, economic development, community engagement and well-being, and public safety.

Approval of the project is consistent with the City Council's goal to diversify the City's economy by attracting businesses that provide services to companies and individuals that use propane as a fuel.

Were the Council to determine the facility poses a public health and safety hazard, denial of the project is consistent with the City Council's goal to create a healthy, safe and thriving Watsonville.

## **FINANCIAL IMPACT**

If approved, the project would generate additional property tax revenue for the City of Watsonville. Denial of the project would not contribute to the fiscal health of the City.

## **ALTERNATIVE ACTION**

The City Council may sustain, modify or overrule the recommendation of the Planning Commission and adopt a Resolution either to approve or deny the requested Special Use Permit with Design Review and Environmental Review to allow or not allow the establishment of a propane storage and transfer facility (aka bulk propane plant) on the subject site.

## **ATTACHMENTS**

1. September 1, 2020 Planning Commission meeting packet (i.e., staff report & attachments)
2. September 1, 2020 Planning Commission public hearing minutes
3. September 1, 2002 Planning Commission Resolution No. 16-20 (PC)
4. Permitted bulk propane facilities in Santa Cruz County

5. Additional public comments received to date

**CITY COUNCIL ACTION RECOMMENDED**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE DENYING A SPECIAL USE PERMIT WITH DESIGN REVIEW AND ENVIRONMENTAL REVIEW (PP2019-18) TO NOT ALLOW THE ESTABLISHMENT OF A PROPANE STORAGE AND TRANSFER FACILITY (AKA BULK PROPANE PLANT) ON A 0.7± ACRE PROPERTY LOCATED AT 950 WEST BEACH STREET, WATSONVILLE, CALIFORNIA (APN 018-331-28)

OR

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE APPROVING A SPECIAL USE PERMIT WITH DESIGN REVIEW AND ENVIRONMENTAL REVIEW (PP2019-18) TO ALLOW THE ESTABLISHMENT OF A PROPANE STORAGE AND TRANSFER FACILITY (AKA BULK PROPANE PLANT) ON A 0.7± ACRE PROPERTY LOCATED AT 950 WEST BEACH STREET, WATSONVILLE, CALIFORNIA (APN 018-331-28)