# ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY PLANNING DEPARTMENT



#### STAFF REPORT

TO:

East County Board of Zoning Adjustments (EBZA)

**HEARING DATE:** 

March 28, 2019

**GENERAL INFORMATION** 

PLANNING FILE #
OWNER/ APPLICANT

PLN 2018-00258, Conditional Use Permit (CUP)

Oasis Venture, LLC/ Kukushkin

**PROPOSAL** 

Application to allow a cannabis cultivation operator

**LOCATION & SIZE OF PARCEL** 

7033 Morgan Territory Road; 92.52 acres

**APN** 

903 -0007-001-01

**ZONING DISTRICT** 

A (Agricultural)

**GENERAL PLAN DESIGNATION** 

This parcel is located within the boundary of the East County Area Plan and designated as "Resource Management." The parcel is

also subject to Measure D.

ENVIRONMENTAL REVIEW

A draft Mitigation Negative Declaration is currently being

reviewed.

#### STAFF RECOMMENDATION

Staff recommends that Board members consider this application as an informational item, review the staff report, receive public comments and provide staff and the applicant with feedback.

#### **SITE AND CONTEXT DESCRIPTION**

<u>Physical Features</u>: The generally rectangular parcel is currently developed with a residence, a detached guest house and a detached barn structure. The majority of the property consists of natural vegetation and native grasslands. A paved private road from Morgan Territory Road provides access to the private residence. Cayetano Creek runs along the front of the property, parallel to Morgan Territory Road.

<u>Adjacent Area</u>: Rural single family residences are located to the north, west, and east of the subject property. Surrounding area is largely undeveloped and vacant land.

#### PROJECT DESCRIPTION

The applicant proposes construction of a 34,213 square foot greenhouse building containing a 22,000 square foot of cannabis canopy as well as a 6,480 square foot processing building, and 28 parking spaces. An existing dirt road will be paved to provide access to the new parking area and properties to the north. (See attached Project Description prepared by the applicant.)

Improvements also include landscaping to be installed around the project perimeter to provide aesthetic enhancements and for visual screening of the facilities.

#### REFERRAL RESPONSES

The project has been referred to County agencies and interested parties. As of this writing, no comments have been received.

#### **STAFF ANALYSIS**

The applicant was issued a cannabis cultivation permit under Title 6 of the General Ordinance code. As a holder of PLN 2017-00215, they are allowed to apply for a conditional use permit in order to implement the operation.

#### **Conformance With General Plan**

This site lies within the boundaries East County General Plan and designated as "Resource Management." Staff is reviewing the applicant's submittal in order to determine if the application complies with the terms of the Resource Management land use designation.

#### **Conformance With The Zoning Ordinance**

Under section 17.52.585 of the General Ordinance Code, cannabis cultivation is permitted as a conditional use in the Agricultural district only if approved by the board of zoning adjustments. Staff is reviewing the applicant's submittal in order to determine if the application complies with the terms of the zoning requirements. As part of the submittal, addition information has been submitted including details about a safety plan, staffing, site access and parking, lighting, aesthetics, noise, traffic, odor mitigation, a cooling system.

#### **CONCLUSION**

As the review process continues, staff is soliciting comments from the EBZA and members of the public.

Attachments: Project Description Site plans

PREPARED BY: Sonia Urzua

SENIOR PLANNER

2.

March 28, 2019

**EBZA STAFF REPORT** 

PLN 2018-0258

## 17.52.585 - Conditional use—Cannabis cultivation.

- A. Cannabis cultivation shall be permitted as a conditional use in the A district only if approved by the board of zoning adjustments as provided in <u>Section 17.54.130</u> and pursuant to <u>Section 17.06.040(R)</u>.
- B. A cannabis cultivation permit must be issued and any appeals finally determined in accordance with <u>Chapter 6.106</u> of this code prior to the hearing on an application for a conditional use permit pursuant to this section. A conditional use permit issued pursuant to this section shall be effective only during such time as the permittee also holds a valid and effective cannabis cultivation permit pursuant to <u>Chapter 6.106</u> and a valid and effective state license permitting cannabis cultivation.
- C. Cannabis cultivation uses approved pursuant to this section shall meet the criteria established by Sections 17.06.040(R), 17.54.130, 17.54.140 and any criteria established for the district. In addition, no conditional use permit for cannabis cultivation shall issue unless the following additional findings are made by the board of zoning adjustments based on sufficient evidence:
  - 1. The applicant has demonstrated an ability to provide effective security for the cannabis cultivation site and to provide a safe environment for people working at the site;
  - 2. Theft and diversion of cannabis cultivated on the premises is prevented;
  - 3. Artificial light shall not escape structures used for cannabis cultivation (e.g. greenhouses) at a level that is visible from neighboring properties between sunset and sunrise. Lighting that is visible from the exterior of the cannabis cultivation area is prohibited, except such lighting as is reasonably utilized for the security of the premises;
  - 4. Any direct or sky-reflected glare or heat shall not be perceptible at any point outside of the cannabis cultivation site;
  - 5. Noise or vibration, other than that related to transportation activities and temporary construction work, shall not be discernible without instruments at any lot line of the site;
  - 6. Odorous gases or odorous matter shall not be emitted in quantities such as to be perceptible outside of the cannabis cultivation site;
  - 7. The discharge into any public sewer, private sewage disposal system or stream or into the ground shall not occur except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;
  - 8. Any dust, dirt or particulate matter shall not be discharged into the air from any activity or from any products stored on the site; and
  - 9. The areas of the site to be actively used for cannabis cultivation activities are set back as follows:
    - a. At least fifty (50) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;
    - b. At least three hundred (300) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and
    - c. At least one thousand (1,000) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.
    - D. The planning director may establish additional performance standards and standard conditions providing detailed guidance for applicants and permittees. Permittees shall be required to comply with the performance standards and any conditions of approval applicable to a permit issued pursuant to this chapter.

#### **PROJECT DESCRIPTION**

This project consists of the development of a cannabis cultivation and processing facility as described herein. The proposed project location, existing site conditions, and proposed components are described below.

## **Project Location and Existing Site Conditions**

The project site is on a 98.11-acre property located at 7031 Morgan Territory Road in the City of Livermore in Alameda County, CA (APN: 903-0007-001-01) (see Figure 1). The project site, as defined throughout this document, consists of the development area shown in Figure 3. The project site is a portion of the larger 98.11-acre property. The project site is located approximately six miles from downtown Livermore, in a rural agricultural area. The majority of the property consists of natural vegetation and native grasslands. There are no cattle or other livestock on the property.

A new cannabis cultivation and processing facility will be constructed within the project site area. A private residence, detached guest house and detached barn are also located on the property outside of the project site. A tabulation of these existing building areas is provided on the site plan (see Exhibit A). The existing residences and barn are not part of the project. There are no proposed modifications to these structures.

With the exception of rural single-family residences to the north, west, and east, the project site and surrounding area is predominately undeveloped and vacant land (see Figure 2). Cayetano Creek borders the project site to the west. Land uses in the vicinity consist of agricultural and sparse rural residences. The site is designated "Resource Management" under the ECAP and is zoned "Agricultural".

## **Project Components**

The proposed project would include development of a single 34,213-sf greenhouse building containing approximately 22,000-sf of a cannabis canopy, as well as a 6,480 sf processing building and 28 parking stalls (see Figure 3 and Exhibit A). The majority of the parking spaces are located outside of the security perimeter fence. Five parking spaces are located inside of the security fence to serve customers and vendors. As noted above, development activity related to the proposed project would be limited to the portion of the property identified as the project site.

### **Building Improvements**

The 6,480-sf processing building would be located on the western side of the project area, closer to the main road. The 34,213 sf greenhouse would be constructed to the rear of the processing building and would include the cultivation of the cannabis.

The processing building would house product processing facilities such as dry rooms, trim room, storage room, office, maintenance and the employee areas. The greenhouse would be comprised of a gutter connectable greenhouse made of four-inch by four-inch square galvanized structural steel columns. Trusses are fabricated with two-inch by two-inch square galvanized structural steel. Gutters are 12-gauge steel at a 12-foot gutter height.

## Site Improvements

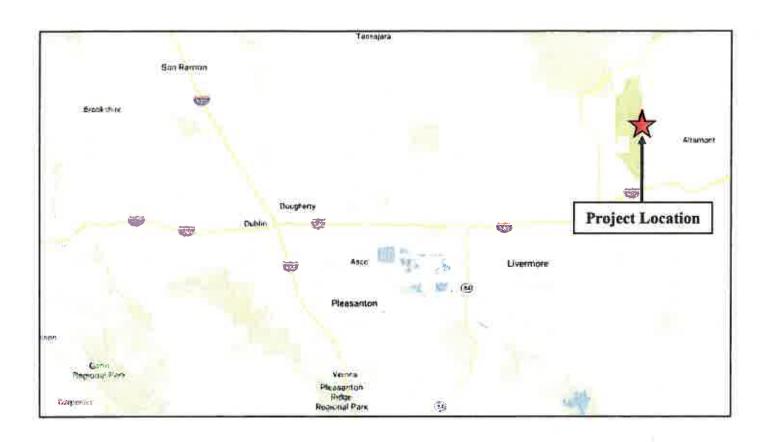
Improvements to the project site include the construction of a paved area around the greenhouse and processing building to provide the required fire access road. Minor repairs to the existing paved private road from Morgan Territory Road to the project site will be made. Finally, a portion of an existing dirt road, located adjacent to the West side of the project area, will be paved to provide access to the new parking area and properties to the North.

New site utilities will be constructed within the project area. These utilities are described in greater detail later in this document.

New landscaping shall be installed around the project perimeter to provide aesthetic enhancements to the project and to provide visual screening of the facilities. The landscape screening elements are meant to blend into the natural hillside using endemic oaks from the surrounding hillsides. Native blue oak clusters are mixed with native live oaks along with other California native and drought tolerance plantings. With the exception of the perimeter fence screening, the screening elements are used in clusters rather than rows in order to promote an organic character. The goal is to screen the property without using clipped hedges where possible. The planting elements are water conserving and most are considered "low water use" plants. Ideally, the oaks would be "summer dry", and could be considered "re-forestation plantings" instead of "screening plantings".

Finally, the proposed landscaping conforms to the County's Water Efficiency Landscape Ordinance (WELO). The proposed landscaping plans and WELO calculations are shown on Exhibit B.

Figure 1 Regional Project Location



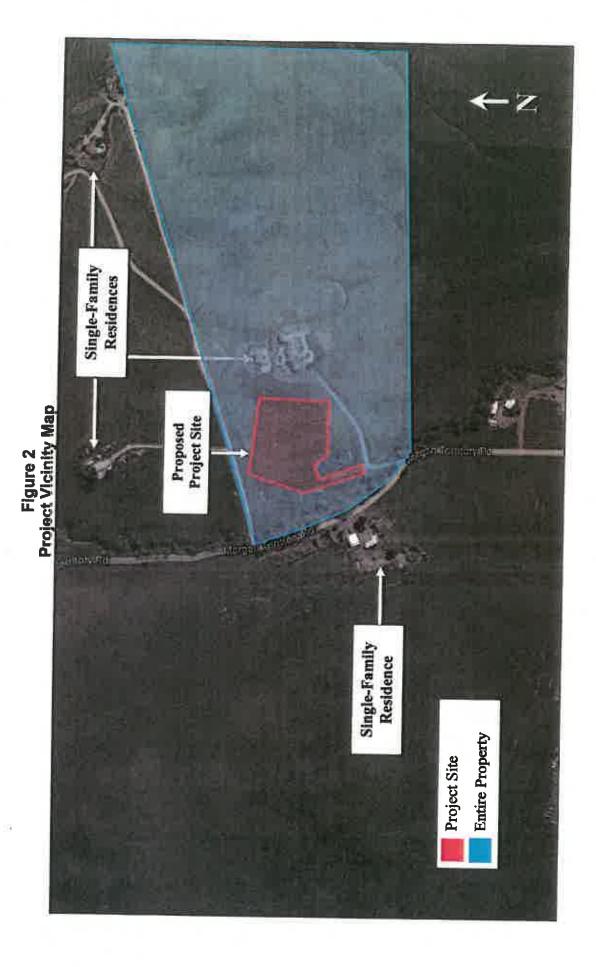
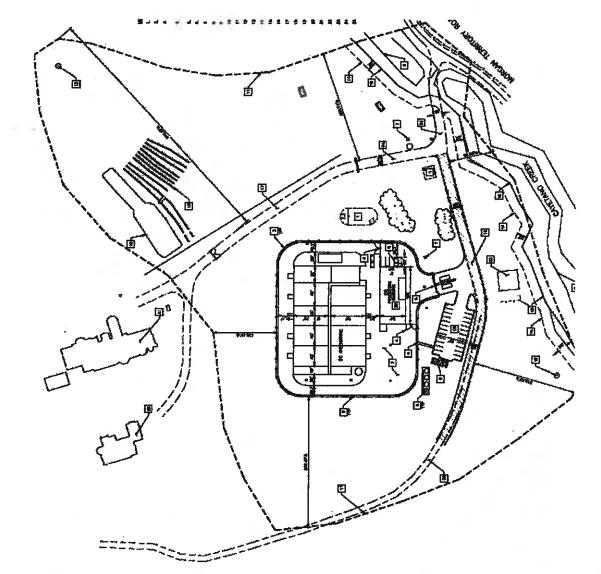


Figure 3 Project Site Plan



## Safety Plan

After the initial build out, the facility would implement controlled access to the property. The new buildings are surrounded by an eight-foot high, vinyl coated chain-link, security fence. Please note that there shall be no barbed wire installed on top of the fence. There is at least one security guard during all operating hours.

Vehicle entry to the site, during working hours, will be via an electric security gate operated by the security guard. During non-working hours, the vehicle gate will be operated by remote control or a keypad. All access gates shall be equipped with a "Knox Box", or an equivalent emergency access system approved by the local fire department.

Entrance into the cannabis storage areas would be strictly controlled. Members of the public would not be provided access to the facility. All employees would undergo background checks, be trained in safety procedures on-site, and use the rear entrance to access the facility with keycards. Additionally, video surveillance would be installed on the exterior of the building in all areas of possible ingress and egress.

All cannabis would be stored in high-security, fire-proof safes. Inventory would be removed from the storage safes only for immediate transport or sale. The storage area would have a volumetric intrusion detection device installed and connected to the facility intrusion detection system. Additional information is presented in the Security Plan (Exhibit C).

# Staffing

The proposed project's cannabis cultivation facility is anticipated to employ 20 to 24 employees; however, not all of the employees would be on-site concurrently. Employees would only be present during the proposed hours of operation which would be from 8:00 AM to 6:00 PM, daily. Additional staffing information is presented in the Operating Plan (Exhibit D).

# Site Access and Parking

Access to the project site would be provided from Morgan Territory Road by an existing paved private road. The project area is set back approximately 400 feet (ft) from Morgan Territory Road. Entrance to the facility would be secured and limited to essential persons only. The facility would include 28 paved parking spaces, including ADA compliant spaces, in a designated, protected parking area. The parking area would be surrounded by a secure fence and monitored by a security guard during hours of operation.

#### Lighting

The proposed project would include installation of security lighting in order to reduce the potential for criminal activity. The main objectives of the security lighting system would be to illuminate dark areas and detect movement in the protected area. The lighting system would be supplemented with instant-on lighting triggered by motion detectors. The facility and all walkways would be well-illuminated.

The greenhouses will employ a supplemental lighting system. There will be 200x 1kw HPS lights evenly distributed throughout the vegetation and grow areas. Additional lighting information is presented in the Security Plan (Exhibit C).

## **Aesthetics**

The proposed development is located approximately 400 feet from Morgan Territory Road. The majority of the site is hidden by existing trees and vegetation. The new buildings are nearly invisible from Morgan Territory Road. The new greenhouse is covered by a combination of colored sheet metal and translucent polycarbonate panels. The processing facility is a conventional steel framed building covered with colored sheet metal siding. Please see Exhibit E for building plans and elevations and Exhibit M for preliminary Photo Simulations of the project from various locations around the project site.

### Noise

The proposed project includes the development of a greenhouse and a processing building for the purpose of cannabis cultivation, as well as an associated parking area. Typical noise generating equipment associated with cannabis cultivation would include ventilation fans, truck loading/unloading, and water pumps. The proposed project would implement a wet wall evaporative cooling system, which uses the natural cooling process of water evaporation in conjunction with exhaust fans to provide cooling for large-volume buildings. In addition, the project operations would include two backup generators on-site. Use of the generators would be limited to occasional testing and emergency situations. The generators shall be located adjacent to the greenhouse or processing buildings.

Noise from the adjacent road is not anticipated to be significantly increased due to the development of the project as the number of new vehicle trips is very low. Please refer to the "Traffic" section below for additional information. Higher levels of noise can be anticipated during the construction of the facility. The contractor shall comply with all County regulations required to minimize noise during construction operations.

## **Traffic**

Traffic to the project site would be limited to employees and authorized personnel, as operation is not open to the public. Vehicle traffic to the site would be predominantly passenger vehicles and small commercial delivery trucks. Occasionally, larger trucks may be present on the site. It is anticipated that the project would not generate a significant amount of traffic. There are only a maximum of 24 employees for the entire facility. Normal business operation shall be from 8 AM till 6 PM. Not all employees will be at the site at the same time. It is anticipated that there would be an average of two commercial vehicle trips per day to accommodate material deliveries, vendors and customers. Vehicle delivery shall occur during normal business operations.

In order to respond to potential concerns regarding traffic, a Traffic Impact Analysis report was prepared for the project. According to this report, the proposed project is expected to generate approximately 11 weekday a.m. peak hour trips and 11 weekday p.m. peak hour trips. The study also includes an assessment of the off-street parking requirements, a site circulation study and an analysis of existing "line of sight" for vehicles exiting the driveway and vehicles traveling southbound along Morgan Territory Road. The traffic impact analysis indicates that all of these items have a "less than significant" impact on the project provided that certain mitigation measures are implemented during the course of construction and in the normal day-to-day operation of the facility.

Please refer to Exhibit N for a copy of the Traffic Impact Analysis.

# Odor Mitigation

The project shall utilize highly efficient electronic air purification systems to mitigate odors. Specifically, the project shall utilize the "urban—gro" air treatment systems for the green houses. The technology in this equipment reduces bacterial and microbial contaminants by approximately 99%. Please see Exhibit F for additional information.

# Cooling System

The project will utilize indirect evaporative cooling system, operating on a recirculation mode. The system design is similar to a water cooled chiller but it uses water as a cooling medium instead of a refrigerant. Water, recalculating in a closed loop system, is cooled in a cooling tower in a liquid-to-air heat exchanger during an adiabatic cooling process of auxiliary water evaporation. Cold water is supplied to air handling units where it sensibly cools the processed air in another liquid-to-air heat exchanger.

The interior air distribution is done via fabric and plastic sleeves connected to externally mounted air supply manifolds. The design also calls for additional fans and louvers installed under the gable roofs for fresh air supply and for purging hot and humid air. The water usage for the cooling towers is estimated to be around 1,500,000 gallons per year with maximum daily usage of 10,000 gpm.

#### **Utilities**

The following is a discussion of the proposed utility sources associated with the proposed project.

#### Energy

PG&E has been contracted as a prime energy provider and a design phase has been initiated to connect the property to the main grid. Co-gen plant is considered as an additional thermal and electrical energy source for a later stage of the development. The Co-gen plant will significantly lower the carbon footprint of the project by providing electrical energy, utilizing thermal energy and using CO2 for crop environment enrichment.

#### Water Supply

Water for the proposed project would be supplied by four existing on-site wells, in addition to new wells that would be constructed as part of the proposed project. Cumulatively, the four wells are producing seven gallons of water per minute. The new wells would be situated to the east of the driveway and south of the proposed leach field. Each well would provide water connections to the overall water system. Additionally, the proposed project would include rain-harvesting facilities, which would be expected to harvest 400,000 gallons per annum. The proposed project is anticipated to use 2,800 gpd of water for cannabis irrigation, as well as up to 10,000 gpd for a cooling system and approximately 1,000 gpd for sanitary and processing uses. The proposed project would include a 500,000-gallon storage tank reservoir. The storage reservoir consists of multiple smaller water tanks. Please see Exhibit G for a copy of the Preliminary Rainwater Harvesting Analysis.

As water is a critical component of the project, the applicant contacted the State Water Resources Control Board to determine if this agency had any jurisdiction over the proposed project. According to Mr. Marco Pacheco, Senior Water Resource Control Board Engineer, his agency does not need to review the project as the maximum number of employees is less than 25. Please see Exhibit G for a copy of an email from Mr. Pacheco regarding this matter.

Please refer to Exhibit G for a copy of the Water Supply for the Oasis grow facility.

#### Wastewater

The project would include construction of a new septic tank system on the project site. The septic system would include a pump vault connecting to a two-inch force main which would lead to a leach field located approximately 300-ft from the project site. A 5,000-gallon capacity sludge tank would be constructed and sludge would be hauled off-site once a week.

Please refer to Exhibit H for a copy of the On-Site Wastewater Treatment Systems Basis of Design report and the septic design drawings.

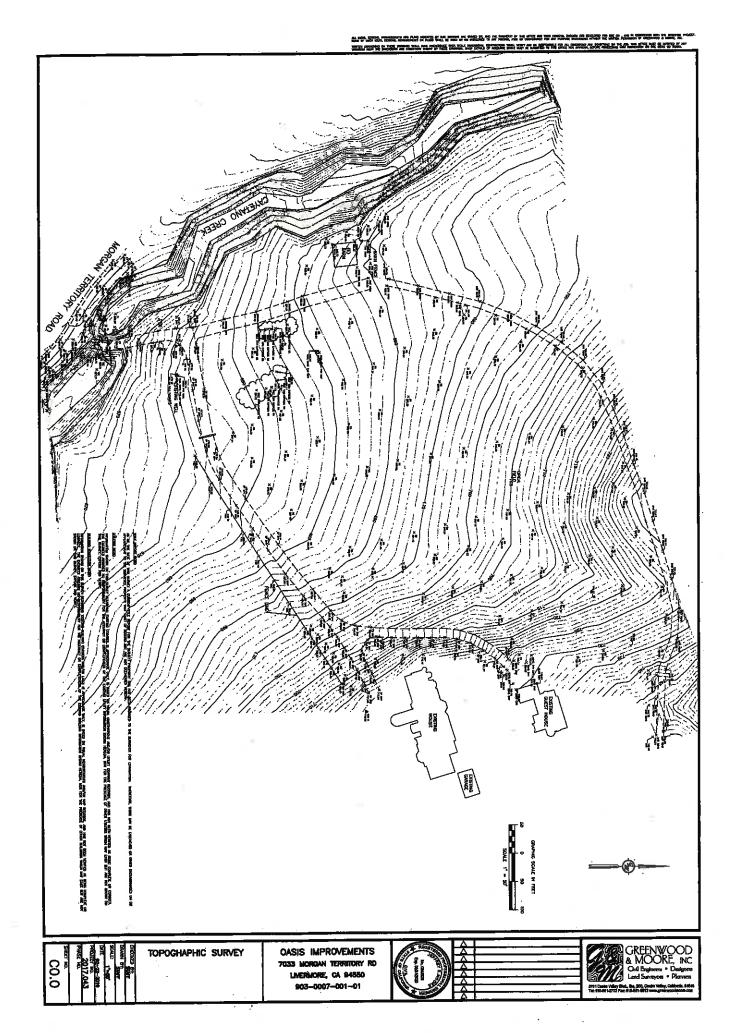
## Stormwater

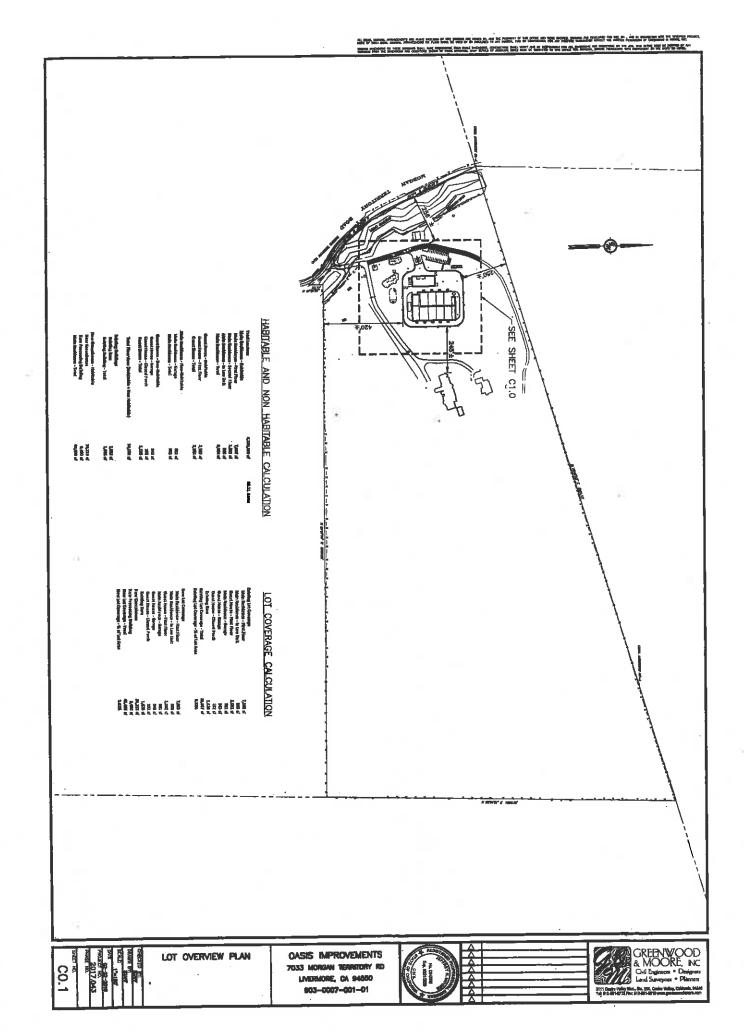
Overland flow and runoff from the project site currently flow into a small drainage ditch, located on the north side of the project site, and drains into Cayetano Creek. Generally, the direction of water flow within the project site is north to south.

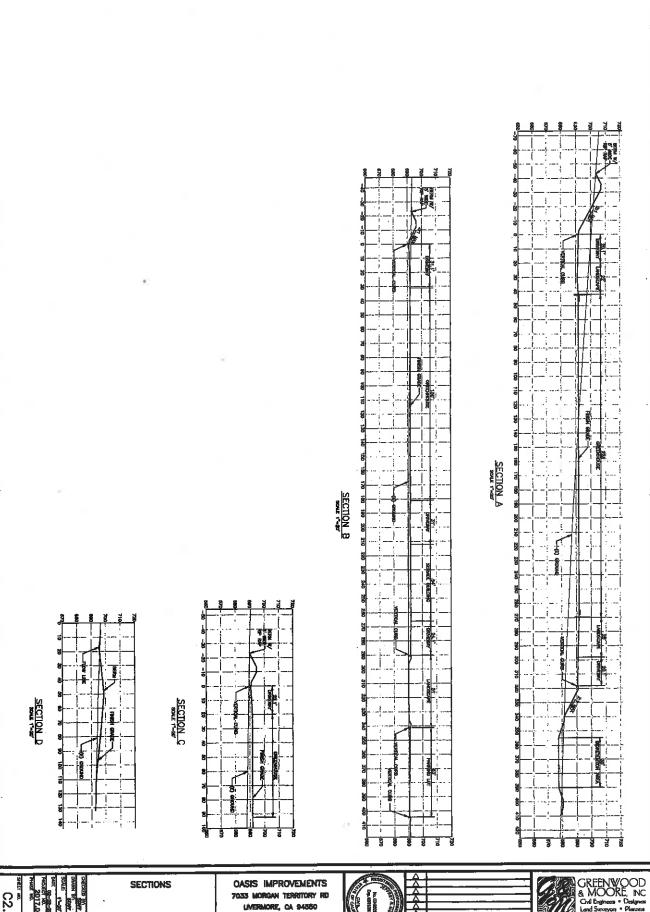
The proposed project would include construction of a berm that would wrap around the northern, western, and eastern boundaries of the greenhouse. The berm would serve to route runoff that originates upslope around the outside of the project site, into the existing ditch and eventually into Cayetano Creek.

Most of the stormwater that falls on roof areas within the project site would be captured using a rainwater harvesting system consisting of an underground vault and connections to the overall water system. Stormwater that falls outside of the area served by the rainwater harvesting system would be directed to a proposed bioretention basin. The bioretention basin would be properly sized to treat and mitigate the flow volumes for water quality, hydromodification, and flood control requirements. The bioretention area would be located on the southern edge of the project site, between the proposed greenhouse and the driveway (see Exhibit A). Outflow from the area would be routed into the drainage ditch along the driveway through a flow spreader in order to join the off-site flows and discharge into Cayetano Creek.

Additional information regarding the storm water system is shown in the Storm Water Checklist and Storm Water Management Plan (Exhibits I & J).





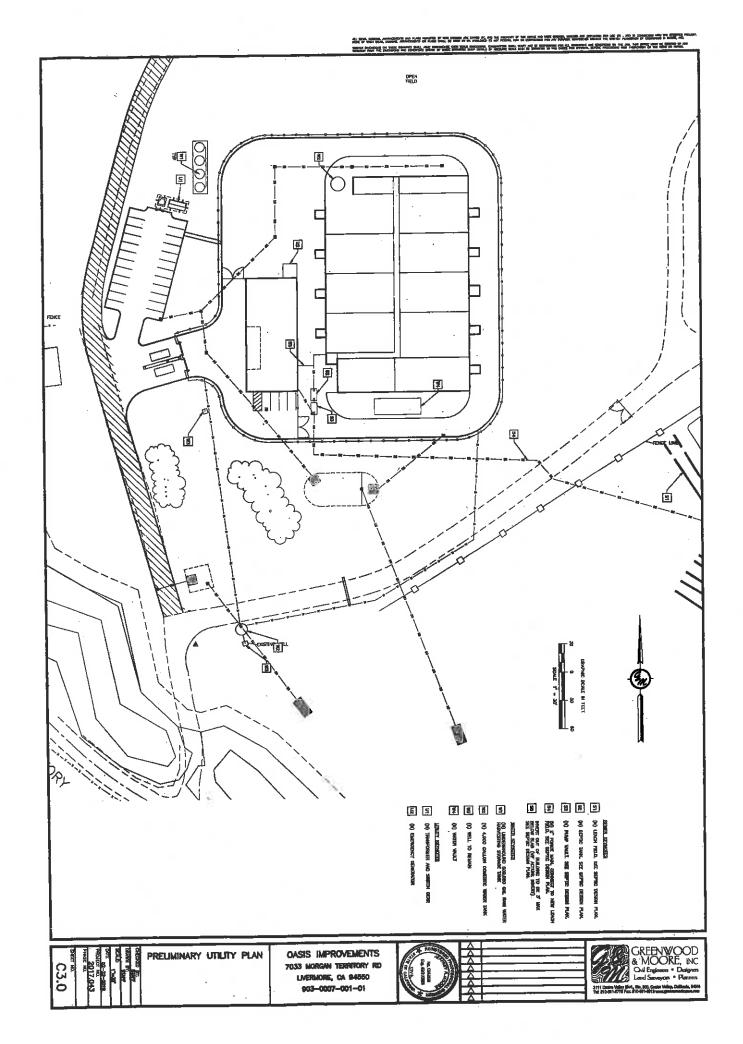


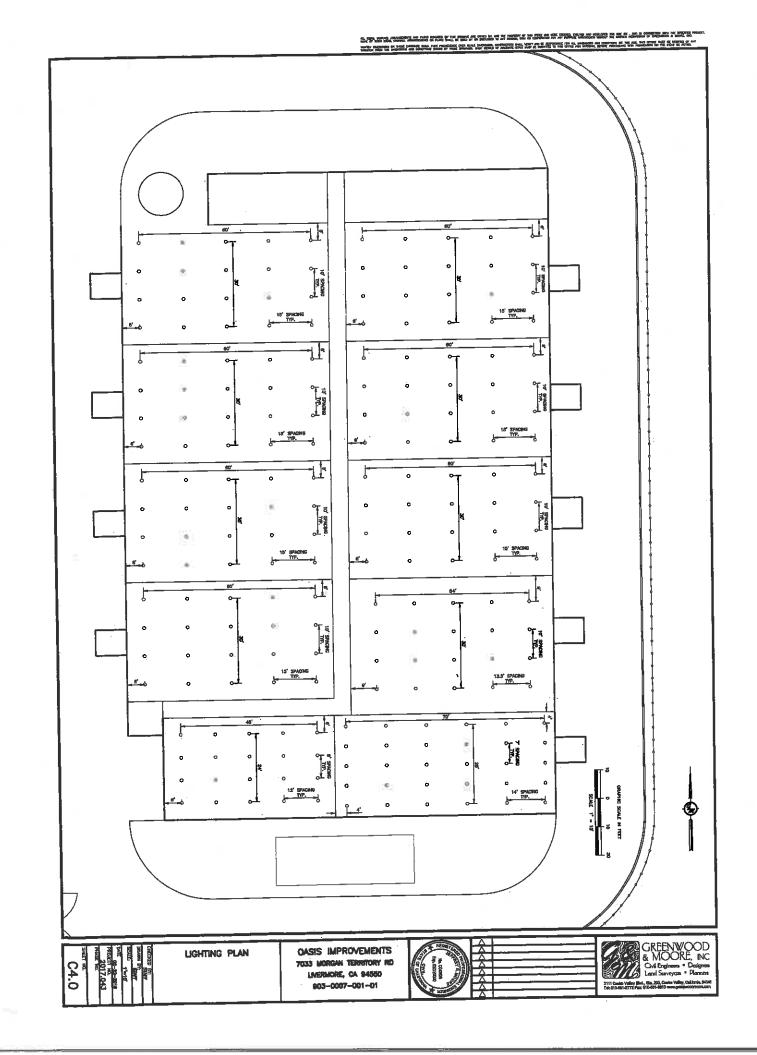
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