

## Operations and Programming Focus Group

Topic	Comment/Questions	District Response
	<p>In Midpen’s existing plan/assumptions, what would be the allowed uses of various structures and areas of the stables, after ADA and other improvements are made. This would include the barn, covered tack area, as well as uncovered areas like the leach field, back “dressage” area behind/below the stalls, and the lower “meadow” which was used in the past for nature-focused events. For structures the key question is can they be used for people/events or just storage. For outdoor areas, can they be used for programming, can horses or other animals be there, can temporary shade elements like popup tents be used.</p>	<p>The Tevis Barn is currently designed and will be permitted for Group U Occupancy classification for agricultural building, barn, stables, and livestock shelter usage. It will be for operational use of the site (hay and equipment storage), not public events.</p> <p>The existing covered tack area is an accessory structure to the main barn and is planned for demolition to accommodate future ADA parking and restroom.</p> <p>Future leach field area will provide filtration for the septic system. Based on consultation with the County's Department of Environmental Health, it is our current understanding that no programming, paddocks, or general use is allowable on the leach field.</p> <p>Dressage area has no planned improvements. Prior existing uses would continue to be allowed using temporary fencing, panels.</p> <p>Lower meadow area has no planned improvements.</p> <p>Outdoor areas: Programming can be accommodated in some outdoor areas, with the use of shade structures. Additional details will be needed to understand the type of programming and space requirements.</p>
	<p>For operations &amp; programming, what would help Midpen in terms of clear &amp; effective separation of responsibility as well as safe and reliable running of the stables. This could include elements of contract, insurance, oversight, etc. You and Brandon touched on some aspects of this in our meeting.</p>	<p>In 2022, the Board developed a policy framework to delegate programming, operation, and maintenance responsibilities to the stables operator(s). Consistent with the Board-approved policy framework, an agreement/contract between the District and the stables operator(s) clearly defines the District's expectations regarding stable operations (e.g. parameters regarding programming, and a framework for the operator's continued obligation/ ability to finance and complete the ongoing maintenance and repairs for the site necessary to preserve this taxpayer-funded asset). The agreement/contract also specifies insurance and other legal requirements. Regardless of whether an operator is a nonprofit or for-profit organization, it will need to employ and manage its own staff in a way that complies with its agreement with the District. The District has ultimate discretion to enforce the agreement. The District will not provide day-to-day supervision of their operation. Some oversight is required to ensure safety and reliable running of the stables. Currently, the board has set an expectation that staff follow up on safety, routine operations and horse health complaints. The Board could decide on a policy basis to leave such issues to an operator. The Board considered a longer term agreement in formulating the policy framework but decided not to pursue that option, in favor of better oversight of the quality of the operation, the level of maintenance and care provided to the site, and the ability for an operator to finance and complete the necessary maintenance and repairs for the site.</p>
	<p>In our meeting you mentioned concerns about safety and perhaps other factors with respect to programming prior to improvements. Assuming the stable operation is brought in compliance with Midpen’s insurance requirements, but before improvements are done, can some aspects of programming restart? We would be particularly interested in non-riding aspects (for example docent interpretation, school visits, equine related demonstrations, etc.).</p>	<p>With defensible space fire clearance complete, and dilapidated paddocks removed, the stables operation is in compliance with the safety provisions as outlined in the concessionaire agreement. Equestrian programming could resume under the responsibility of the current concessionaire should the current concessionaire provide insurance coverage that satisfies the requirements of the concessionaire agreement. This could include school visits, camps, and other equestrian programming as long as the programs complied with the current concessionaire agreement. Specifically, participants in equestrian programming must be age 7 or older and there may be no more than 20 participants per day. The agreement outlines additional additional stipulations. Docent interpretation programming would be provided by Midpen staff at the discretion of the District.</p>

## Architecture and Engineering Focus Group

Topic	Comment/Questions	District Response
<b>Road and Fire Access</b>		
	Use upper road for two-way access. Suggested cutting the road and spread soil around the project site.	This could be an alternative. However, based on preliminary analysis conducted as part of the project, grading rather than installing a retaining wall would likely result in higher construction cost and environmental impacts.
	Use of gravel instead of asphalt	This could be an alternative. Santa Clara County will need to review and approve based on fire engine loading and road slope/grade. Using gravel instead of asphalt could also result in higher maintenance (annual material cost and staff time) costs and additional grading and offhaul because gravel section will be thicker.
	Requested email from Santa Clara County Fire Marshal regarding use of upper road for fire access. Email is from around April 24, 2024.	See attached.
<b>Water</b>		
	There are hydrants that are not serviceable or functional. Suggest District fix them.	Property Management staff will review the existing fire suppression infrastructure and make any necessary repairs/improvements to ensure operability and compliance.
	Water tanks are currently empty. Need to address this.	Due to uneven settling of the water tanks, one of the tanks is cracked and has been isolated from the second tank. The remaining 5000 gallon tank will be filled and the current hydrant will be functional once the tank is full. An additional hydrant will be added to the new San Jose Water Company waterline in the near future.
	There are leaks at the valves and other locations. Need to fix them.	Two leaks were identified after the site visit and have been repaired. Additional leaks have been identified and staff have scheduled time to make the appropriate repairs.
	Check on water rates and billing information. District may qualify for agriculture use designation.	Staff reached out to both Santa Clara Valley Water District and San Jose Water Company, Ag designation is for food production, and requires a market product to qualify the operation. Stables do not qualify per Santa Clara Valley Water. Current water meter is a COM_B 2" commercial meter. Water is billed at a flat middle supply rate based on 6-12 CCF + cost of meter. Billing cycle is based on a 2-month period meter reading. Calculation for water cost for April/May is \$210/month excluding the charge for the preexisting meter. In the conversation with San Jose Water, they will not support a meter not provided or installed by SJW so staff will be required to read meter every two months to calculate water cost for Stables compared to District's BCR water bill. Water usage for April /May is for the stables with fewer than the historical number of horses. Running a calculation on the meter as a tier standard meter, cost of water would be approximately 50% higher or \$300/month at current boarding animal numbers.
<b>Site Design</b>		
	Presented two alternatives and provide handout of sketches.	Sketches received. They're shown on the Progress Report dated 7.31.24 from the group.
	Alternative designs should reduce sewer, stormwater, and other utilities, as well as C.3 stormwater treatment. This will save on project capital costs.	We appreciate that the proposed alternatives have considered opportunities to save on project capital costs, and preliminary cost estimates can be generated once the FWG concepts have been finalized. The feasibility of each proposed component will need to be analyzed as well, based upon County regulations, C.3 guidelines, creek setbacks, maintenance requirements, and other applicable requirements.

## Architecture and Engineering Focus Group

Topic	Comment/Questions	District Response
	Use compostable toilets instead of plumbed toilets.	The use of compostable toilets could be discussed further with the County. Through our consultation to date, the County has stated that plumbed toilets would be required at the site. The County's ordinance Sec. B11-76. regulates and prohibits holding tanks/portable toilets with some exceptions. The County has confirmed this site does not qualify for an exception to allow for the use of a vault toilet typically used in the Preserves. It is our understanding that County ordinance does not discuss composting toilets.
	Use dressage area. Use extra soil from road and grading from other locations here.	This alternative could be considered. Currently, improvements to the dressage area are outside the project scope and this area was previously removed from the project to reduce costs, as approved by the Board. However, expanding the project footprint to support balanced cut and fill of the project could be considered. Additional analysis would be needed to understand the cost implications, particularly related to improvements needed for large vehicles to use the trail between the upper arena and dressage area.
	Use lower meadow area for programming.	This alternative could be considered. Currently, improvements to the lower meadow are outside the project scope and the use of this area could be limited by required creek setbacks and adjacent riparian habitat. The District would need to understand the type of programming and improvement necessary associated with the programming. Additional analysis would be needed to understand the cost implications and environmental impacts.
	Use area on top of leach field for programming, storage, or other use.	Based on our consultation with the County, there are no allowable uses on top of the leach field. Additional consultation with the County will be required if the Board would like to pursue this further.
	\$460k stormwater related seems high	Cost estimate is based on information provided by independent third party cost estimator plus 6% per year inflation/escalation factor to 2027 estimated construction date. Actual construction bid cost won't be exactly the same as the estimate. Actual construction bid will vary depending on factors such as means and methods, equipment, market conditions, self-performed work versus subcontractor, etc.
	Leachfield and paving not necessary and could be removed.	These could be cost saving items. Santa Clara County will need to weigh in and approve them. Based on the site uses, the leach field may be necessary for other site use such as the residence and equestrian waste water.
	Restoration Planting \$550k	Cost estimate is based on information provided by third party cost estimator plus 6% per year inflation/escalation factor to 2027 estimated construction date. The estimate was preliminary and subject to change based upon the final design of the project.
	\$200k demo/clean up/grubbing	Cost estimate is based on information provided by third party cost estimator plus 6% per year inflation/escalation factor to 2027 estimated construction date. Based on District's past demolition project data, this number appears fairly close if not lower.
	General conditions \$400k	Cost estimate is based on information provided by third party cost estimator plus 6% per year inflation/escalation factor to 2027 estimated construction date. The District does have more stringent general conditions due to close proximity to water tributary, sudden oak death (Phytophthora) requirements, and natural and cultural resource monitoring and protection, etc.
	Size of hay barn assumptions - could it be smaller? Share the assumptions for size.	Assumption is 2,000 sf. See attached PowerPoint slide from District's 3/22/23 Board meeting. The storage, work area, and box stall sums up to 1,984 sf, slightly short of 2,000 sf of the proposed barn footprint.

## Architecture and Engineering Focus Group

Topic	Comment/Questions	District Response
	Don't need \$700k retaining walls.	The site is situated on artificial fill, and is subject to both active and dormant landslides. The retaining walls were recommended by the geotechnical engineer for public safety and to protect assets. The two proposed alternative site plans suggested removing the retaining wall from the edge of the parking area. These alternatives will need to be reviewed by geotechnical, civil, and structural engineers, as well as the County geologist during permit review.
	Code requirements for minimum number of parking stalls.	The County's project comments have stated that as a commercial stable, the site's improvements must conform with County parking requirements listed in Zoning Ordinance Section 44.30.040 (1 parking space per 3 horses and 1 per employee, plus ADA parking), and parking design standards listed in Zoning Ordinance Section 4.30.070(B). If the required parking cannot be accommodated, Zoning Ordinance Section 4.30.100 may apply. Based on Santa Clara County's Zoning Ordinance Section 4.30.040 requirement and Table 4.30-2, 29 parking spaces are required for a commercial stable with a design capacity of 72 horses and 5 employees. Under Santa Clara County's Zoning Ordinance Section 4.30.100 (Parking Exception), exceptions are available for consider under specific circumstances. Exception request submitted with resubmittal 1.
	Clarification if 20 or 25% of individual building improvements is the threshold for a CUP. We suppose that demolition of any building has no CUP impact given the trigger is improvements to individual buildings.	<p>Annual Repairs Limitations - The County Zoning Ordinance (§.50.020) restricts structural modifications to buildings designated as non-conforming uses as follows: alterations cannot exceed 25 percent of the building's construction valuation within any 12-month period. Because the County's formula to determine values has not been recently updated, calculated values are low and allow for minimal yearly repairs.</p> <p>Through extensive coordination with the County, District staff also understand that even without a CUP, fire and building permit conditions will be associated with improvements.</p>

## Funding and Partnership Focus Working Group


Topic	Comment/Questions	District Response
	Discussed telling a story around projects at Hwy 17 Wildlife Crossing, Alma Newt Project, Regional Trail Projects, and Alma Historic Complex.	See attached webpage links for Midpen project related reports and documents. 1. Highway 17 Crossings and Trail Connections: <a href="https://www.openspace.org/what-we-do/projects/highway-17-wildlife-and-trail-crossings">https://www.openspace.org/what-we-do/projects/highway-17-wildlife-and-trail-crossings</a> 2. Alma Bridge Road Newt Passage: <a href="https://www.openspace.org/what-we-do/projects/newt-passage">https://www.openspace.org/what-we-do/projects/newt-passage</a> 3. Regional Trails Connections: <a href="https://www.openspace.org/what-we-do/projects/regional-trail-connections">https://www.openspace.org/what-we-do/projects/regional-trail-connections</a> 4. Alma Cultural Landscape Rehabilitation: <a href="https://www.openspace.org/what-we-do/projects/alma-cultural-landscape-rehabilitation">https://www.openspace.org/what-we-do/projects/alma-cultural-landscape-rehabilitation</a> Based on grant applications submitted in the past, to fulfill grant application requirements the District would submit more focused project scopes and narratives. In addition, staff received feedback from granting agencies/grantors that an application would be more competitive if the scope and story telling for the funding proposal would be more focused on the specific project need and can demonstrate the project's relationship to the larger context.
	Look for grants from California Natural Resources Agency.	Acknowledged. The District have reached out to CNRA and will continue to work with them on funding opportunities.
	Put paddocks on top of new leach field.	Through consultation with the County, it is our understanding that paddocks are not allowed on the leach field.
	Make sure there are sufficient horse trailer parking stalls.	The current plan would continue to accomodate temporary parking (not long-term storage) of trailers in the upper arena area. New formal trailer parking is outside of the current project scope.
	Provide programming for children in the lower arena area.	Suggestion has been acknowledged.
	What size of trees is required for mitigation after removal?	Mitigation requirements will be determined several different ways: Midpen's BCR Preserve Plan EIR, Santa Clara County Tree Preservation and Removal Ordinance, and other resource agency permit requirements. Mitigation requirements can be based on tree size, species, or if trees are part of a sensitive natural community or a regulated jurisdiction (for example, in riparian areas trees as small as 4" could require mitigation).
	Make this BCStables area similar to Hidden Villa. Allow school buses to access the area.	Acknowledged. The District will review feasibility.
	Use dressage area past the upper arena area for programming.	This could be an alternative but would likely increase project cost.
	Want to reuse the Tevis Barn and look for funding opportunities.	Acknowledged.
	Look at the big picture. Don't do bandaid fixes. Dream big. A lot of opportunities here. There's a good story here. Tell them through art.	Acknowledged.
	How many horses are currently at BC Stables?	The most current boarder list we have on file for July lists 20 horses boarded at the stables.
	What is the status of Chaparral at BC Stables? Do they have any horses there?	Chaparral is currently only providing care and feeding services for the 20 horses onsite. There are no Chaparral horses at Bear Creek Stables.
	When does Chaparral's current agreement at BC Stables expire?	The current two year agreement expires May 31, 2025.
	Is there a 24-hour caretaker at BC Stables?	No. There is currently no caretaker at BC Stables. As a reminder there is no requirement for the concessionaire to be onsite 24 hours a day only the "ability to respond" to emergencies. Here is the language from the agreement: "Provide a presence (by Concessionaire, or an employee, or person acting on behalf of Concessionaire) on the site to operate the facility and ability to respond to emergencies on a 24 hour per day, 365 days per year basis."

**Re: Midpen Bear Creek Stables Repair Project Permitting**

Rob Campbell &lt;rob.campbell@sccfd.org&gt;

Wed 4/17/2024 5:08 PM

To: Susanna Chan <schan@openspace.org>; Jane Mark <jmark@openspace.org>; Leza Mikhail <leza.mikhail@pln.sccgov.org>; joanna wilk <joanna.wilk@pln.sccgov.org>; Jason Lin <jlin@openspace.org>; Gretchen Laustsen <glaustsen@openspace.org>  
Cc: Jacqueline Onciano <jacqueline.onciano@pln.sccgov.org>; Brad Fox <brad.fox@sccfd.org>; Hector Estrada <hector.estrada@sccfd.org>; Matthew McKenna <matthew.mckenna@sccfd.org>; Alex Goff <alex.goff@sccfd.org>

 1 attachments (2 MB)

P-17\_Plans - 2.pdf;

Some people who received this message don't often get email from rob.campbell@sccfd.org. [Learn why this is important](#)

**EXTERNAL**

Hello all,

Thank you for your patience.

I met internally with our County Fire team (including Deputy Chief and Assistant Fire Marshal) and offer the feedback below to clarify my statements in our 3/7 meeting.

- Entrance road before the split - Demonstrate the maximum width possible with the goal of 20 feet to accommodate two way traffic. We can consider less than 20 feet with mitigation, but it must be greater than 16.
- Use of a one-way road concept after the split, is the preferred FD access design
- One-way road shall be minimum 12 feet wide driving surface with 14 feet width clear of vegetation and obstructions
- Provide a turnaround at the convergence of upper (in) and lower (out) one way roads - at the beginning of the boarding/riding arena area
- Fire access road surfaces should be pavement excepting that further consideration may be given for aggregate base on low grade slopes
- Fire hydrant placement and pressure require further detailed consideration.

The following information is provided for reference from the State Fire Safe Regulations regarding one-way roads:

(b) All One-way Roads shall be constructed to provide a minimum of one twelve (12) foot traffic lane, not including Shoulders. The Local Jurisdiction may approve One-way Roads.

(1) All one-way roads shall, at both ends, connect to a road with two traffic lanes providing for travel in different directions, and shall provide access to an area currently zoned for no more than ten (10) Residential Units.

(2) In no case shall a One-way Road exceed 2,640 feet in length. A turnout shall be placed and constructed at approximately the midpoint of each One-way Road.

I'm happy to schedule a follow up meeting with additional SCCFD staff should like further dialog on the matter.

Thank you,

Rob.

**Robert L. Campbell, PE**  
*Sr. Fire Protection Engineer*  
*Santa Clara County Fire Department*

[rob.campbell@sccfd.org](mailto:rob.campbell@sccfd.org)  
408-341-4420

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**From:** "Rob Campbell" <rob.campbell@sccfd.org>  
**To:** "schan" <schan@openspace.org>, "jmark" <jmark@openspace.org>, "Leza Mikhail" <leza.mikhail@pln.sccgov.org>, "joanna wilk" <joanna.wilk@pln.sccgov.org>, "jlin" <jlin@openspace.org>, "glaustsen" <glaustsen@openspace.org>, "matthew mckenna" <matthew.mckenna@pln.sccgov.org>  
**Cc:** "Jacqueline Onciano" <jacqueline.onciano@pln.sccgov.org>, "Brad Fox" <brad.fox@sccfd.org>, "Hector Estrada" <hector.estrada@sccfd.org>, "Matthew McKenna" <matthew.mckenna@sccfd.org>  
**Sent:** Thursday, March 21, 2024 1:10:46 PM  
**Subject:** Re: Midpen Bear Creek Stables Repair Project Permitting

Hello All,  
During our 3/7 meeting I stated I would follow up regarding road width questions after discussing internally with SCCFD staff and management. I scheduled an internal meeting to discuss last week that had to be postponed due to illness and family emergencies. Conflicting schedules have postponed that meeting to 4/17/24. I will update you all on status after our internal meeting. I am sorry for the delay and want to thank you for your patience.

Thank you,

Rob.

**Robert L. Campbell, PE**  
*Sr. Fire Protection Engineer*  
*Santa Clara County Fire Department*  
[rob.campbell@sccfd.org](mailto:rob.campbell@sccfd.org)  
408-341-4420

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**The following meeting has been forwarded:**

**Subject:** Fwd: Midpen Bear Creek Stables Repair Project Permitting [MODIFIED]

**Organizer:** jacqueline.onciano@pln.sccgov.org

**Sent By:** "Rob Campbell" <rob.campbell@sccfd.org>

**Location:** Microsoft Teams Meeting

**Time:** Thursday, March 7, 2024, 4:00:00 PM - 5:00:00 PM GMT -08:00 US/Canada Pacific

**Required:** schan@openspace.org; jmark@openspace.org; leza.mikhail@pln.sccgov.org;  
joanna.wilk@pln.sccgov.org; matthew.mckenna@sccfd.org; jlin@openspace.org;  
glaustsen@openspace.org; matthew.mckenna@pln.sccgov.org

**Optional:** alex.goff@sccfd.org; Sylvia.Gallegos@ceo.sccgov.org

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----- Original Appointment -----

**Subject:** Fwd: Midpen Bear Creek Stables Repair Project Permitting

**Organizer:** jacqueline.oncini@pln.sccgov.org

**Location:** Microsoft Teams Meeting

**Time:** Thursday, March 7, 2024, 4:00:00 PM - 5:00:00 PM GMT -08:00 US/Canada Pacific

schan@openspace.org; jmark@openspace.org; leza.mikhail@pln.sccgov.org;

**Required:** joanna.wilk@pln.sccgov.org; matthew.mckenna@sccfd.org; jlin@openspace.org;

glaustsen@openspace.org; matthew.mckenna@pln.sccgov.org

**Optional:** alex.goff@sccfd.org; Sylvia.Gallegos@ceo.sccgov.org

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## Microsoft Teams meeting

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# Replacement Barn Size



- PRESERVE
- PROTECT
- RESTORE
- EDUCATE
- ENJOY

	Storage	Work Area	Box Stall	Unused	Total
<b>Main Barn</b>	100	75	-	1,570	<b>1,670 sf</b>
<b>Hay Barn</b>	722	275	-	200	<b>1,197 sf</b>
<b>Breezeway</b>	455	-	432	300*	<b>1,187 sf</b>
<b>Total</b>	<b>1,177 sf</b>	<b>375 sf</b>	<b>432 sf</b>	<b>1,770 sf</b>	

## Bear Creek Stables Repair Project- Parking Exception Justification

PLN21-173

The Bear Creek Stables (BCS) Repair Project's proposed parking improvements include 15 parking spaces within the lower lot and two (2) vehicles plus horse trailer spaces along the driveway.

### County Comment

*On the site plan, please demonstrate how the commercial stable conforms with County parking requirements listed in Zoning Ordinance Section 44.30.040 (1 parking space per 3 horses and 1 per employee, plus ADA parking), and parking design standards listed in Zoning Ordinance Section 4.30.070(B). If the required parking cannot be accommodated, Zoning Ordinance Section 4.30.100 may apply.*

### Response

Based on Santa Clara County's Zoning Ordinance Section 4.30.040 requirement and Table 4.30-2, **29 parking spaces are required** for a commercial stable with a design capacity of 72 horses and 5 employees.

Under Santa Clara County's Zoning Ordinance Section 4.30.100 (Parking Exception), exceptions are available for consider under specific circumstances.

*Santa Clara County's Zoning Ordinance Section 4.30.100 (Parking Exception)*

*For uses subject to discretionary review, the approving authority may allow a reduction in required parking spaces if it finds that one or more of the following circumstances apply:*

- A. The use or building is situated in an area characterized by older buildings which historically have not provided off-street parking consistent with current requirements.*
- B. The use or building is in close proximity to public transit facilities, or the client base is demonstrably less inclined to use automobiles than the general public.*
- C. The nature or design of a specific use or facility is uniquely different from more standard examples of uses or facilities within the use classification, such that a reduction in required parking is warranted. The reduction in required parking shall be supported by a parking study prepared by a qualified parking or transportation expert.*
- D. The lot size and configuration, as well as the existing or potential building size, do not allow a reasonable use of the lot unless parking requirements are modified.*

*Parking reductions may only be allowed if the impacts of such reduced parking are not significantly contrary to the findings required under the applicable permitting process.*

Parking exception A, which states, "the use or building is situated in an area characterized by older buildings which historically have not provided off-street parking consistent with current requirements" applies to the Bear Creek Stables site. Prior to the District's ownership, the Stables site was developed as an equestrian breeding and training facility, with the earliest structures constructed in the 1910s (see Tech Rpt-Hist Rec-1 and Tech Rpt-Hist Rec DPR-1). These uses and buildings existed prior to the time when

the County's building permit requirements were established. The site's continual use as an equestrian facility prior to 1975, when the site's zoning allowed for equestrian stables as a matter of right, has been documented by the County of Santa Clara Planning Department (Corresp-1). The 72-horse capacity has remained relatively constant since 1975, and the District has kept the maximum number of horses allowed under the existing legal non-conforming use.

As demonstrated, the Stables site is characterized by pre-1975 buildings and a historical use that have not had to provide off-street parking consistent with current zoning requirements. The project as proposed would provide greater public benefit with improved parking capacity and site circulation meeting the County's design standards.