



COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

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## MITIGATED NEGATIVE DECLARATION

### I. DESCRIPTION OF PROJECT:

**Application #s:** ZA-14-19; SD-14-09; DA-14-08; EA-14-19

**APN:** 767-23-030

**Project Title:** Monterey Road - Young Residential Project

**Project Location:** The 9.35-acre project site is located immediately west of the intersection of Monterey Road and Watsonville Road, within an urbanized portion of Morgan Hill. **Figure 1** of the Initial Study shows the location of the project site. The subject property is comprised of one parcel (APN 767-23-030) that has been historically used for agricultural purposes.

**Project Proponent:** Presidio Mana Young, LLC  
5927 Balfour Court, Suite 208  
Carlsbad, CA 92008  
Contact: Orville Power

**Project Description:** The project applicant is requesting approval for the following on the 9.35-acre site (APN 767-23-030):

- Rezoning of the project site from R2-3,500 to R2-3,500 (PD) and approval of a precise development plan;
- Subdivision of the eastern portion of the project site into 37 residential lots;
- Approval of a Development Agreement to establish a development schedule and ensure the developer fulfills project commitments;
- Approval of Design Review application (not yet submitted, but will be required by Municipal Code); and
- Construction of 37 attached residences, common space amenities/open space area, and all related improvements such as roadways, sidewalks, driveways, utilities, etc.

The proposed project would involve the development of a total of 37 residences on the portion of the project site located north of West Little Llagas Creek (approximately six acres). The remaining 3.4 acres to the south of this creek (Parcel L) would remain undeveloped with no future use proposed.

## II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures are included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

## III. CONDITIONS (Mitigation and Standard Measures):

### A. *Air Quality*

Although the project's construction-related air pollutant emissions would not exceed the BAAQMD's applicable significance thresholds, the following measures are recommended by the BAAQMD to reduce the project's construction emissions:

- MM AQ-1: Basic Construction Measures.** To limit the project's construction-related dust and criteria pollutant emissions, the following BAAQMD-recommended Basic Construction Mitigation Measures shall be included in the project's grading plan, building plans, and contract specifications:
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
  - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

*B. Biological Resources*

The project's construction-related activities such as demolition, site preparation, and grading could have potentially significant effects on special-status animal species that could be expected on the project site or using suitable habitat on-site. Implementation of the following measures would reduce these potentially significant effects to less-than-significant levels:

**MM BIO-1:** Pre-construction Survey for White-tailed Kite, Non-listed Raptors, and Other Non-listed Breeding Birds. After project approval, and prior to any activity that alters or disrupts surface soils on the site, pre-construction surveys for nesting birds shall be conducted by a qualified biologist not more than seven (7) days prior to site disturbance during the breeding season (February 1 through August 31). If site disturbance commences outside the nesting season, pre-construction surveys for nesting birds are not required. If active nests of raptors and other migratory birds are not detected within approximately 250 feet of the project site, no further mitigation is required.

If nesting raptors or other migratory birds are detected on or adjacent to the site during the survey, a suitable construction-free buffer should be established around all active nests. The dimensions of the buffer (up to 250 feet) should be determined at that time and may vary depending on location and species. The buffer areas should be enclosed with temporary fencing, and construction equipment and workers should not enter the enclosed setback areas. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents.

**MM BIO-2: Pre-construction Survey for Burrowing Owls.** After project approval, and prior to any activity that alters or disrupts surface soils on the site, a pre-construction survey conducted by a qualified biologist for burrowing owls within 30 days of the on-set of construction. This survey would be conducted according to methods described in the Staff Report on Burrowing Owl Mitigation (CDFG 1995), the Burrowing Owl Consortium's Burrowing Owl Survey Protocol and Mitigation Guidelines (1997), and the City of Morgan Hill's Citywide Burrowing Owl Habitat Mitigation Plan (June 2003). All suitable habitats of the

study area would be covered during this survey.

If pre-construction surveys undertaken during the burrowing owl breeding season (February 1 through August 31) locate active nest burrows within or near construction zones, these nests, and an appropriate buffer around them (as determined by a qualified biologist) would remain off-limits to construction until the breeding season is over. During the burrowing owl nonbreeding season (September 1 through January 31), resident owls may be relocated to alternative habitat. The relocation of resident owls must be according to a relocation plan prepared by a qualified biologist. Passive relocation would be the preferred method of relocation. This plan must provide for the owl's relocation to nearby lands possessing available nesting and foraging habitat.

**MM BIO-3: Tree Replacement.** Trees along the periphery of the site would be removed in order to construct the proposed project and City tree removal permits would be required for the removal of "Trees" and "Indigenous Trees," as defined by City Municipal Code. The City will require the applicant to replace removed trees at a minimum 2:1 ratio with native tree species that have a similar sized canopy at maturity, and with a minimum box size of 24 inches.

*C. Cultural Resources*

The following standard measures will reduce potential impacts from site preparation and construction grading on unknown cultural resources that could occur on the project site.

**MM CUL-1: Disposition of Cultural Resources.** The discovery of undocumented human remains or unknown significant historic or archaeological resources would be evaluated according to the City's specific protocol for the treatment of the uncovered human remains and/or resources. The protocol entails the process of identifying the human remains and the contact of appropriate parties, such as the Native American Heritage Commission and the Amah Mutsun Tribal Band, to determine Most Likely Descendant for further consultation on the disposition of the remains. The disposition of the discovered human remains would be conducted in consultation with appropriate parties as identified by the City.

The following condition shall be placed on all improvement plans, building plans, and grading plans and shall be implemented as necessary:

In the event that known or suspected Native American remains are encountered or significant historic or archaeological materials are discovered, the following measures will be implemented:

- a. Ground - disturbing activities shall be immediately stopped if suspected Native American remains and/or significant historic or

archaeological materials are discovered. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials, and historic structure remains such as stone-lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the discovery locale.

- b. An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the Monitoring Archaeologist (typically 25 - 50 ft. for single burial or archaeological find).
- c. The discovery locale shall be secured (e.g., 24 hour surveillance) as directed by the City or County if considered prudent to avoid further disturbances.
- d. The Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition: 1) the City of Morgan Hill Community Development Director; 2) the Contractor’s Point(s) of Contact; 3) The Coroner of the County of Santa Clara (if human remains found); 4) The Native American Heritage Commission (NAHC) in Sacramento; and 5) The Amah Mutsun Tribal Band.
- e. If human remains are discovered, the Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American the Coroner has 24 hours to notify the NAHC. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) from the Amah Mutsun Tribal Band. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
- f. Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose. Within 24 hours of their notification by the NAHC, the MLD may recommend to the City’s Community Development Director the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items

associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the Amah Mutsun Tribal Band may be considered and carried out.

- g. If the MLD recommendation is rejected by the City of Morgan Hill the parties will attempt to mediate the disagreement with the NAHC. If mediation fails then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

*D. Geology and Soils*

The project site, like other surrounding developed areas in Morgan Hill, will be subject to very strong ground shaking from future strong earthquakes in the site vicinity.

**SM GEO-1:** Conformance with the current California Building Code along with site-specific seismic design parameters specified in the geotechnical report required by the City will be adequate to reduce potentially significant groundshaking hazards to less than significant.

**SM GEO-2:** As a Standard Condition of Approval, the project applicant would be required to implement an erosion control plan. The proposed erosion control measures would include use of fiber rolls or silt fences along the perimeter of all proposed private drives, installation of a sediment barrier at the site's principal storm drain inlet, provision of gravel bag check dams on the proposed public street, and hydroseeding of designated areas.

*E. Hazards and Hazardous Materials*

The following mitigation measures will reduce potential hazardous materials impacts from structure demolition, site preparation, and construction grading that could occur on the project site.

**MM HAZ-1: Implement Buyer Education Program for Household Hazardous Waste:** The project sponsor, working with the City of Morgan Hill and County of Santa Clara Household Hazardous Waste program, shall implement a Buyer Education Program for Household Hazardous Waste, developing materials to educate buyers about the identification of household hazardous wastes, environmental hazards associated with mishandling of the wastes, appropriate disposal methods, and how to make an appointment for disposal. At a minimum, the educational materials shall include a list of example household hazardous wastes, discuss the environmental impacts of improper disposal, explain how to make an appointment for disposal, and list safer and less toxic alternatives to hazardous products commonly used. The educational materials shall be provided to the buyer at the time of purchase.

*F. Hydrology and Water Quality*

The City will require the following mitigation measures to ensure that potentially significant effects of flood hazards upon the proposed project and future residents would be reduced to less than significant levels:

**MM HYD-1: Base Flood Elevation.** Due to the cumulative increase in the Base Flood Elevation (BFE) of 0.4 feet, the project will be required to file for a Conditional Letter of Map Revision (CLOMR) to FEMA for approval of the increase of the BFE by 0.4 feet and re-mapping of the affected areas due to cumulative developments. CLOMR shall be approved by FEMA prior to issuance of any Building Permit.

**MM HYD-2: Building Elevations.** All project building/structures shall be elevated 1 foot above the updated BFE of the CLOMR.

**MM HYD-3: FEMA Map Revision.** Project shall file a Letter of Map Revision (LOMR) with FEMA prior to acceptance of the public improvements or once the building pad grades of the subdivision have been elevated above the updated BFE.

**MM HYD-4: Construction Elevation Certificate.** Project shall provide FEMA elevation certificate of each building to verify finished construction has the proper 1-foot free board of the updated BFE.

*G. Noise*

The following mitigation measures will reduce potential hazardous materials impacts from structure demolition, site preparation, and construction grading that could occur on the project site.

**MM NOI-1: Implement Acoustical Report Recommendations.** To achieve compliance with the 60 dB DNL limit of the City of Morgan Hill Noise Element standards for the noise impacted courtyards at the sides of certain buildings exposed to Monterey Road or Watsonville road traffic noise, the following noise control barrier shall be required:

- Construct six-foot high acoustically-effective barriers at the courtyards at the sides of the buildings shown on Figure 1 of Attachment 6. The barrier returns shall be connected air-tight to the sides of the homes. The barrier height is in reference to the nearest building pad elevation.

To achieve an acoustically-effective barrier, the barrier must be constructed air-tight, i.e., without cracks, gaps or other openings, and must provide for long term durability. Barriers can be constructed of masonry, wood, concrete, stucco, earth berm or a combination thereof and must have a minimum surface weight of 2.5 pounds per square foot. If wood fencing is used, homogeneous sheet materials are preferable to conventional wood fencing as the

latter has a tendency to warp and form openings with age. However, high quality, air-tight, tongue-and-groove, board and batten or shiplap construction can be used. All connections with posts, pilasters or building shells must be sealed air-tight. No openings are permitted between the upper barrier components and the ground. Gates may be incorporated into the barriers, however, they must be of the same weight material as the main barrier and must seal tight when closed. The gap at the bottom of the gate shall be less than one inch.

**MM NOI-2: Implement Construction Noise Controls.** Construction noise should also be mitigated by the following measures:


- Quiet or "new technology" equipment should be used wherever feasible. All internal combustion engines used at the project site be equipped with mufflers (as recommended by the vehicle manufacturer). In addition, all equipment should be in good mechanical condition so as to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
- Noisy operations shall be scheduled for the daytime hours (7:00 a.m. to 8:00 p.m., Monday through Friday and 9:00 a.m. to 6:00 pm. on Saturdays) in accordance with time limits specified in the City of Morgan Hill Zoning Ordinance.
- All diesel-powered equipment should be located more than 200 feet from any residence to the extent feasible if the equipment is to operate for more than several hours per day.
- Stockpiled materials should be located so that they can help block construction noise at nearby sensitive receptors.
- Noise reduction benefits could also be achieved by appropriate selection of equipment utilized for various operations (subject to equipment availability and cost considerations). The following measures are recommended to reduce noise impacts on nearby residents:
  - Earth Removal: Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.
  - Backfilling: Use a backhoe for backfilling, as it is less costly and quieter than either dozers or loaders.
  - Ground Preparation: Use a motor grader rather than a bulldozer for final grading.
  - Building Construction: Powers saws should be shielded or enclosed where practical to decrease noise emissions. Nail guns should be used where possible as they are less noisy than manual hammering.



- Construction Phasing: Construct buildings or other significant structures at the site perimeter to help shield existing sensitive receptors from noise generated on the site.

### III. FINDING

The City of Morgan Hill hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the initial study will reduce the impacts to a less than significant level.



Andrew Crabtree, Community Development Director

Date: March 8, 2016