

**RESOLUTION NO. 19-046**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DESIGN REVIEW PERMIT TO ALLOW FOR THE CONSTRUCTION OF A 49 UNIT MULTI-FAMILY MIXED USE PROJECT WITH 3,076 SQUARE-FOOT OFFICE SPACE IN CONJUNCTION WITH THE REALIGNMENT OF DEPOT STREET TO CHURCH STREET THROUGH THE COMMUNITY AND CULTURAL CENTER (CCC) PARKING LOT LOCATED AT 17020 DEPOT STREET AND 17060 MONTEREY ROAD (APN: 726-13-049, 052)**

**WHEREAS**, the developer the Latala Group, LLC applied for a Design Review permit in compliance with Disposition Development Agreement No. DA2018-0005 and RDCCS Development Agreement No. DA2018-0007 to construct 49 multi-family units, a 3,076 square foot office space, and the realignment of Depot Street to Church Street and East Dunne Avenue intersection (SR2019-0003: Depot – Latala); and

**WHEREAS**, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process; and

**WHEREAS**, on September 10, 2019, the Planning Commission reviewed and considered the Initial Study prepared for the Project and determined that the proposed Project is consistent with the Downtown Specific Plan Master EIR pursuant to Sections 15177(b) and 15179(b) of CEQA Guidelines; and

**WHEREAS**, on September 10, 2019, the Planning Commission reviewed and recommended approval of the Design Review Permit to City Council; and

**WHEREAS**, on October 2, 2019, the City Council reviewed the Design Review Permit and considered the Initial Study prepared for the Project and determined that the proposed Project is consistent with the Downtown Specific Plan Master EIR pursuant to Sections 15177(b) and 15179(b) of CEQA Guidelines; and

**WHEREAS**, the Initial Study prepared for the project is incorporated, by this reference, into this Resolution as if fully set forth herein; and

**WHEREAS**, although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in a Master EIR (MEIR) for the Downtown Specific Plan, and (b) have been avoided or mitigated pursuant to that earlier MEIR, including revisions or mitigation measures that are imposed upon the Project, nothing further is required. Furthermore, pursuant to CEQA Guidelines Section 15179, no substantial changes have occurred with respect to the circumstances under which the MEIR was certified, and there is no new available information, which was not known and could not have been known at the time that the MEIR was certified; and

**WHEREAS**, the proposed project is consistent with the development assumptions in the Downtown Specific Plan. The proposed project would not result in any new or more significant cumulative impacts than the previously approved project (disclosed in the Specific Plan MEIR). Mitigation measures adopted for the previously approved project were feasible and will be implemented by the proposed project; and

**WHEREAS**, the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 89.5 of the California Department of Fish and Game Code.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby finds that the foregoing recitals are true and correct.

**SECTION 2.** The project is consistent with the Zoning Ordinance, General Plan and Downtown Specific Plan as demonstrated in **Exhibit B**.

**SECTION 3.** The Design Review has been found consistent with the criteria for Design Review permit approval contained in Section 18.108.040 of the Morgan Hill Municipal Code:

- a. The proposed project is consistent with the General Plan and any applicable specific plan, area plan, or other design policies and regulations adopted by the City Council.

The redevelopment of the Hale Lumber site in conjunction with realigning Depot Street is consistent with the General Plan Policies, Specific Plan transportation infrastructure, development standards, and design guidelines.

- b. The proposed project complies with all applicable provisions of the Zoning Code and Municipal Code.

The proposal is consistent with all provisions in the Zoning Code which is consistent with the Downtown Specific Plan requirements.

- c. The proposed project substantially complies with all applicable design standards and guidelines contained in the Design Review Handbook.

Chapter 5: Design Guidelines as part of the Downtown Specific Plan supersede the regulations within the Design Review Handbook. A consistency chart was prepared and found the project consistent with all design guidelines in that chapter.

- d. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

An Initial Study was prepared for the Project and found the Project to be consistent with the Downtown Specific Plan MEIR pursuant to Sections 15177(b) and 15179(b) of CEQA Guidelines.

- e. The proposed project development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

The redevelopment of the Hale Lumber site and realignment of Depot Street through the CCC parking lot is part of the vision for both the General Plan and Downtown Specific Plan. The project will not be detrimental to the public health as analyzed within the Initial Study. The project and circulation were designed to Vision Zero standards and therefore will not be detrimental to public safety or welfare. The project enhances public access by adding sidewalks and will comply with SWPPP and Building Code requirements, therefore will not be materially injurious to the properties or improvements in the vicinity.

- f. The proposed project complies with all Design Review criteria in subsection H. of Section 18.108.040 of the municipal code.

Chapter 5: Design Guidelines as part of the Downtown Specific Plan supersede the regulations within the Design Review Handbook. The project is found to be consistent with all design guidelines in that chapter.

- g. For new residential development, the project complies with commitments made through the residential development control system (RDCS).

The project received approval of a RDCS Development Agreement (DA) on April 17, 2019. The project was reviewed and found to be in compliance with the development agreement public benefit commitments required prior to approval of a Design Review permit.

**SECTION 4.** The City Council approves the Design Review Permit for application SR2019-0003: Depot-Latala. The design shall be expressly conditioned in conformance with conditions incorporated herein and as attached as **Exhibit "A"**. Minor deviations to the site review permit may be approved by the Community Development Director when consistent with the overall intent of the project.

**SECTION 5.** Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your use for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected (a) under development agreements, (b) pursuant to agreements with the Morgan Hill Redevelopment Agency or (c) as a part of your application for development

allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provided. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun. This right to protest does not apply to voluntary Residential Development Control System fees.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Morgan Hill at a regular meeting held on the 2<sup>nd</sup> day of October 2019.

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>	<b>Larry Carr, Rene Spring, John McKay, Yvonne Martinez Beltran, Rich Constantine</b>
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>	<b>None</b>
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>	<b>None</b>
<b>ABSENT:</b>	<b>COUNCIL MEMBERS:</b>	<b>None</b>

**APPROVED:**

  
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**RICH CONSTANTINE, Mayor**

**ATTEST:**

  
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**IRMA TORREZ, City Clerk**

**∞ CERTIFICATION ∞**

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 19-046, adopted by the City Council at a regular meeting held on October 2, 2019.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** 10/16/19

  
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**IRMA TORREZ, City Clerk**



## **EXHIBIT "A"**

### **STANDARD CONDITIONS**

**APPLICATION: SR2018-0003, Depot – Latala**

**THE FOLLOWING ARE STANDARD CONDITIONS OF APPROVAL THAT MUST BE MET PRIOR TO THE ISSUANCE OF BUILDING PERMITS AND/OR SITE DEVELOPMENT PERMITS EXCEPT AS MAY BE SPECIFIED IN THE CONDITIONS. THE APPROVAL REQUIREMENTS INCLUDE THESE REQUIREMENTS AND ANY SPECIAL CONDITIONS THAT ARE APPLIED THROUGH THE DEVELOPMENT APPROVAL PROCESS. APPLICANTS ARE REQUIRED TO SIGN THE APPROVAL CERTIFICATE/RESOLUTION FORM INDICATING THEY UNDERSTAND AND AGREE TO IMPLEMENT THESE STANDARD CONDITIONS AND ANY SPECIAL CONDITIONS APPLIED TO THEIR PERMIT APPROVAL.**

#### **ACRONYMS:**

**MHMC – Morgan Hill Municipal Code**

**MHARH – Morgan Hill Architectural Review Handbook**

#### **PLANNING DIVISION**

#### **TIME LIMITS**

- A. The Design Review permit approval granted under this Resolution shall remain in effect for 24 months to October 2, 2021. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. The extension of time may be reviewed and approved at the admin level. **(MHMC 18.108.040)**

#### **OTHER CONDITIONS**

- A. The CCC parking lot will be resurfaced and striped to include 240 parking stalls with a maximum of 30% of the stalls designed as compact. As part of the TIA, the property owner or designee shall install speed-reducing measures as simple as posting speed limit signs for the private drive aisle on the Hale Lumber Site.
- B. Prior to approval of building permits, all building windows, doors will demonstrate compliance with required STC ratings identified within the Noise and Vibrations Study prepared by Edward L. Pack Associates, Inc.

- C. Pursuant to the Edward L. Pack Associates report, all the living spaces that require mechanical ventilation will be demonstrated on the building permit plans prior to building permit approval. This will allow new homeowner the option to maintain window and doors closed due to noise levels as explained in the Noise and Vibrations Study prepared by Edward L. Pack Associates, Inc.
- D. All trees to be removed, relocated, or protected will comply with the landscape plan and Arborist Report by Kiely Arborist Services LLC dated July 22, 2019. Trees identified within the Arborist Report as "transplantable size" on the CCC portion of the project site will be analyzed prior to removal for the likelihood of survival if relocated. The CCC parking lot will also be re-assessed to insure there is enough space on the property to relocate any of the "transplantable size" trees.
- E. The crosswalk design at East Dunne, Church Street, and realigned Depot Street is subject to change based on the budget within the DDA. Alternate design may be reviewed and approved by the Community Development Director.
- F. The decorative fence screening the CCC rose garden will meet the artwork goals for the Hale Lumber project site. Artwork design to complement final design of crosswalks. Alternate design to the fencing may be reviewed and approved by the Community Development Director.
- G. Prior to building permit issuance, the property owner or designee shall work with the Planning Division on the diversity and location of potted planter boxes along the residential frontages of Depot Street.
- H. Prior to Off-Site Improvement Plans the applicant and contractor shall submit a construction logistics plan that addresses all impacts to the public road right-of-way, including but not limited to: pedestrian control, traffic control, detours, truck routes, material deliveries, contractor's parking, on-site staging and storage areas, concrete pours, crane lifts, work hours, noise control, dust control, and storm water pollution prevention. It shall include notes as indicated on the approved Truck Route Map for construction traffic to and from the site.
- I. The Developer shall work with the Economic Development Department on ways to engage the community about the construction that is happening.
- J. CC & RS: The applicant shall provide a set of Covenants, Conditions and Restrictions, Bylaws and Articles of Incorporation, for review and approval by the Community Development Department prior to final occupancy or recordation of the final map. All such CC&Rs shall include the following text:

1. Common Areas/Right of Ways:

- i. The Owners recognize that the use, modification and proper maintenance of the Common Area and public right-of-way(s)\* are for the benefit of all citizens of the City of Morgan Hill (City) and that the City is an intended third party beneficiary of these covenants, conditions and restrictions and may, upon notice of hearing as set forth below, exercise the same powers of enforcement as the Association.

1. \*Public right-of-way: Exclusive of streets dedicated to and accepted by the City of Morgan Hill

- ii. The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within thirty (30) days of the mailing or delivery of such notice, the City shall have standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.
- iii. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association.
- iv. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
- v. This section may not be amended without the prior written consent of the Director of Community Development for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.

- vi. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance obligation or duty of maintenance is increased by such amendment.
- 2. Tree and Landscape Preservation: The Owners of the Units and Association shall preserve and maintain all trees and landscape on the property originally required by the approved landscape plan and shall not remove or alter any such trees or landscape from the Property without the approval of the Director of Community Development of the City of Morgan Hill.
  - 3. Compliance with the City of Morgan Hill Conditions of Approval: It shall be the responsibility of each Owner and the Association to insure that any changes or modifications to the Project or any Unit are in compliance with the original City conditions of approval of the Project, which are hereby incorporated herein as if set forth in full.
- K. Avoid over-spray from automatic irrigation systems.
  - L. Provide at least 7 feet of vertical clearance between branches and sidewalks.
  - M. Maintain landscape areas.
  - N. Tandem parking spaces shall be used to accommodate passenger vehicles only and the homeowners will be aware of the requirement to use the garage space as parking and it will be a part of the homeowner association rules.
  - O. All roof mounted mechanical equipment shall be placed within a screened roof top enclosure depicted on the elevation drawings or located below the parapet level and shall not be visible from the ground at any distance from the building. Cross section roof drawings shall be provided at the building permit stage indicating the relative height of the screen wall or parapet. Minimum screen height or parapet depth shall be 5 ft. or greater to match the height of any proposed equipment.
  - P. Lighting fixtures shall not project above the fascia or roofline of the building. Any ground mounted lighting projecting onto the building or site will be subject to the review and approval of the Director of Community Development. Adjustment to the lighting intensity may be required after the commencement of the use.
  - Q. All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior.

- R. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building.
- S. Reciprocal ingress/egress easements and EVA easements: Prior to issuance of a certificate of occupancy, the property owner shall record an appropriate deed restriction and covenant running with the land subject to review and approval of the Community Development Director for a reciprocal ingress/egress easement along the common driveway.
- T. FINAL SITE DEVELOPMENT PLANS: Final site development plans shall be reviewed for conformance with Morgan Hill Municipal Code Section 18.108.040 and approved by the Community Development Department prior to issuance of a building permit. All such plans shall include:
  - i. Detail depicting all concrete curbs as full formed.
  - ii. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing.
  - iii. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities.
  - iv. Trash enclosures shall be constructed of a sturdy, opaque material, minimum 6 feet in height with solid view obstructing gates and shall be designed in harmony with the architecture of the building(s). Sizing and design shall conform to the Morgan Hill Architectural Review Handbook. In residential areas, restaurants or other food service commercial uses, trash enclosure areas shall require an overhead shade structure. Trash enclosures shall be required in all commercial and industrial projects and in residential projects containing four or more dwelling units.
  - v. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be architecturally screened from view or located interior to the building. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. **(MHARH p.20, 45, 79)** For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.
  - vi. All existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.



- U. DUST, NOISE, VIBRATION, AND MATERIALS MANAGEMENT PLAN: A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. **(MHMC 18.76)**

The plan must include the following "Basic Construction Mitigation Measures" per Bay Area Air Quality Management District's guidelines:

- i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - iii. 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.
  - iv. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 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.
  - vii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - viii. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- V. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

- W. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- X. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
- Y. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- Z. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- AA. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- BB. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
- CC. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
- DD. Minimizing the idling time of diesel powered construction equipment to two minutes.
- EE. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
- FF. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
- GG. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- HH. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.

## **I. BEST MANAGEMENT PRACTICES**

### **A. Cultural Resources**

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. Discovery of Archaeological Resources. If prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities, all work within 100 feet of the find shall halt until a qualified archaeologist and Native American representative can assess the significance of the find. If the find is determined to be potentially significant, the archaeologist, in consultation with the Native American representative, will develop a treatment plan that could include site avoidance, capping, or data recovery.
10. Discovery of Human Remains. In the event of the discovery of human remains during construction or demolition, there shall be no further excavation or disturbance of the site within a 50-foot radius of the location of such

discovery, or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

#### B. Biological Resources

1. General construction activities and the removal of trees could impact nesting birds. To the extent practicable, vegetation removal shall be performed from September 1 through February 28 to avoid the general nesting period for birds. If tree removal cannot be performed during this period, preconstruction surveys for nesting birds shall be conducted by a qualified wildlife biologist no more than 14 days prior to the start of vegetation removal grading or other construction activities.
2. If vegetation removal or other construction or operational activities are not started within 14 days of the survey, another survey shall be required. The survey area shall include all of the construction site and staging areas as well as areas within 150 feet of the project site. In the event that an active nest is discovered in the areas to be cleared and or developed or in habitats within 150 feet of the proposed activities vegetation removal and construction shall be postponed for at least two weeks or until a wildlife biologist has determined that the young have fledged and the nest is vacated and there is no evidence of a second nesting attempt.

#### C. Noise & Vibration

1. Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for homes throughout the site, so that windows could be kept closed at the occupant's discretion to control interior noise and achieve the interior Lmax and Ldn noise standards.
2. Provide sound rated windows and doors to maintain interior noise levels at acceptable levels. Preliminary calculations made based on the data contained in the conceptual design plans indicate that sound-rated windows and doors with a sound transmission class rating of STC 38 to 43 would be sufficient to control maximum instantaneous noise levels to 50 dBA Lmax in bedrooms, 55 dBA Lmax in other habitable rooms, and to also achieve the 45 dBA Ldn interior noise standard. Additional treatments may include, but are not limited to, sound rated wall construction, acoustical caulking, insulation, acoustical vents, etc. Large windows and doors should be oriented away from the railroad where possible. Bedrooms should be located away from the UPRR.

3. Confirm the final specifications for noise insulation treatments during final design of the project, based on the best available data regarding future usage assumptions for the UPRR. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit. The following standard conditions shall be included in the project:
  - i. Construction activities shall be limited to the hours between 7:00 a.m. and 8:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays. No construction activities should occur on Sundays or federal holidays (Consistent with Section 8.28.040 of the Morgan Hill Municipal Code).
  - ii. Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - iii. Locate stationary noise generating equipment (e.g. rock crushers, compressors) as far as possible from adjacent residential receivers.
  - iv. Acoustically shield stationary equipment located near residential receivers with temporary noise barriers or recycled demolition materials.
  - v. Utilize "quiet" air compressors and other stationary noise sources where technology exists.
  - vi. The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
  - vii. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.

#### D. Air Quality

1. Include basic measures to control dust and exhaust during construction. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less than significant level. The contractor shall implement the following best management practices that are required of all projects:



- i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - iii. 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.
  - iv. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
  - v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 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.
  - vii. 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.
  - viii. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- E. The project shall comply with the requirements of the Municipal Regional Permit (MRP) as well as other local, state, and federal requirements. Specifically, the project shall comply with provision C.3 of the MRP, which provides enhanced performance standards for the management of stormwater for new development.
- F. The project shall comply with all City of Morgan Hill ordinances, policies, and processes regarding the construction treatment of stormwater runoff. Specifically, a Stormwater Management Plan (SWMP) will be developed prior to issuance of building permits for project construction, to ensure compliance with City of Morgan Hill and MRP requirements. The SWMP will meet the criteria for stormwater protection outlined in the City's Environmental Compliance Program.

- G. Construction BMPs shall be implemented for reducing the volume of runoff and pollution in runoff to the maximum extent practicable during site excavation, grading, and construction. All measures shall be included in the project's SWMP and printed on all construction documents, contracts, and project plans. These would include:
- i. Restrict grading to the dry season or meet City requirements for grading during the rainy season.
  - ii. Use effective, site-specific erosion and sediment control methods during the construction periods. Provide temporary cover of all disturbed surfaces to help control erosion during construction. Provide permanent cover as soon as is practical to stabilize the disturbed surfaces after construction has been completed.
  - iii. Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff. Cover stockpiles with secure plastic sheeting or tarp.
  - iv. Implement regular maintenance activities such as sweeping driveways between the construction area and public streets. Clean sediments from streets, driveways, and paved areas on-site using dry sweeping methods. Designate a concrete truck washdown area.
  - v. Dispose of all wastes properly and keep site clear of trash and litter. Clean up leaks, drips, and other spills immediately so that they do not contact stormwater.
  - vi. Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the project area from sedimentation with filter fabric and sand or gravel bags.
- II. Defense and Indemnity. Applicant agrees to defend, indemnify, and hold harmless the City of Morgan Hill, its officers, agents, employees, officials and representatives (Indemnitees) from and against any and all claims, actions, or proceedings arising from any suit for damages or for equitable or injunctive relief which is filed against City to attack, set aside, void or annul its approval of this discretionary project or any related decision, or the adoption of any environmental documents which relates to said approval. The City shall promptly notify the Applicant of any such claim, action or proceeding and the City shall cooperate fully in the defense thereof. In the event that Applicant is required to defend Indemnitees in connection with the proceeding, Indemnitees shall retain the right to approve (a) the counsel to so defend Indemnitees; (b) all significant decisions concerning the manner in which the defense is conducted; and (c) any and all settlements, which approval shall not be unreasonably withheld. This indemnification shall include, but is not limited to, (a) all pre-tender litigation costs incurred on behalf of the City, including City's attorney's fees and all other litigation



costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals; (b) reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted; and (c) all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party arising out of or in connection with the approval of the application or related decision. City may, in its sole discretion, participate in the defense of such action; but such participation shall not relieve Applicant of its obligations under this condition. The undersigned hereby represents that they are fully empowered by the Applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.

JJ. Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.

KK. Submit two (2) signed copies of this Resolution to the Planning Division prior to issuance of building permits.

### **PRETREATMENT**

1. An industrial waste discharge permit is required from the Pretreatment Program prior to any industrial wastewater discharge (non-domestic) to the Sanitary Sewer System. The permit shall be maintained and renewed as required. Please email to [Jennifer.Rojero@cityofgilroy.org](mailto:Jennifer.Rojero@cityofgilroy.org) for a pretreatment application.
2. Kitchens/Cooking facilities: All commercial cooking and food preparation facilities shall be provided with a grease trap or clarifier (clarifier with sample box), sized for the anticipated flows. No garbage disposals are allowed. Contact Pretreatment at 408 846-0438 for Grease Interceptor Policy Documents for sizing and type, etc. Submit plans and obtain permit from Pretreatment.

### **FIRE PREVENTION**

1. Where required: Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.
2. Width: Fire apparatus access roads shall have a minimum unobstructed width of **26 feet** (7925) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.
3. Proximity to building: At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572) and a maximum of 30 feet (9144mm) from the building, and shall be positioned parallel to one entire side of the building, as approved by the fire code official

### **RECOLOGY**

- A. Recology is to have access to the gate for the EVA's.
- B. A "No Parking" sign shall be installed listing the hours and day of the week of trash service. The sign location shall be near the EVA entrance to the CCC south parking lot.

### **POLICE DEPARTMENT**

- A. The Police Department shall review and approve a safety and security plan for the facility including a security camera plan prior to the issuance of a building permit or site development permit, whichever one is issued first.

### **ENGINEERING DIVISION**

#### **I. PROJECT SPECIFIC**

##### **A. General:**

1. At Final Map stage, add a Public Service Easement over the new water line crossing the CCC South Parking Lot.
2. Obtain a Right of Entry Agreement/Permit for work within Union Pacific Transportation Company's property.
3. At improvement plan stage, provide a copy of the preliminary CC&R's or maintenance agreement showing entity/property owner responsible for maintaining the subsurface infiltration facilities located in the common areas.
4. At improvement plan stage, submit a final cost estimate of the realigned Depot Street.
5. In compliance with the DDA, the developer shall submit a summary vacation submittal and drawings to vacate a portion of Depot Street.



6. Prior to submitting improvements plans, the Developer and Project Engineer shall meet with Land Development Engineering Division to go over the project's RDCS commitments to be addressed.

**B. Flood:** Majority of the project site is in Flood Zone X and a small portion in Zone AE, with Elevations between 345' NAVD88 near Fifth Street and 347' NAVD88 near Fourth Street. Zone AE is within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Buildings 1 and 2 are within Flood Zone AE.

1. A Flood Analysis Memorandum prepared by Schaaf & Wheeler for this project, dated February 12, 2019, has been reviewed. The memorandum stated that the project's impact to West Little Llagas Creek's water surface elevation was less than 0.1 feet and the cumulative impact of the project and the upstream developments was less than one foot which are within the City's requirements.
  - a. The project is encouraged to file a Conditional or Final FEMA Letter of Map Revision (CLOMR/LOMR or CLOMR-F/LOMR-F) to the Federal Emergency Management Agency (FEMA) for Buildings 1 and 2 to change the flood zone designation for the two buildings and remove the flood insurance requirement for the future residential owners.
2. Elevate the lowest floors of Buildings 1 and 2 a minimum of one foot above the base flood elevation determined in the Schaaf & Wheeler Flood Analysis.
3. An Elevation Certificate (FEMA Form 086-0-33) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate based on finished construction is required for each built structure prior to building final.
4. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.

**C. Street Improvements:**

1. At improvement plan stage, the project shall revise the plans to comply with the following:
  - a. Move the raised pedestrian crossing at Depot Street within an adequate distance southwesterly to address possible sight distance issues between pedestrians crossing and vehicles on Depot Street and from the parking lots. Update mid-block crossing detail on Sheet C-04.
  - b. Add decorative streetlights along the west side of Depot Street (Leg 1 - next to the North Parking Lot) with spacing of 50' on center. The existing streetlight will be removed, salvaged and delivered to the City's Corp Yard.
  - c. Show the new striping and other proposed improvements at the intersection of Dunne Avenue and realigned Depot Street.
  - d. New street trees to match the existing street trees along Depot Street or comply with the Master Street Tree Plan as determined by the City Engineer. The type of replacement trees in the CCC Parking Lot will be determined at improvement plan stage.



2. The City's CIP Pavement Resurfacing Project will slurry seal Depot Street from Main Avenue to Dunne Avenue in August 2019. Striping, pavement restoration and other improvements along Depot Street will be reviewed in detail at improvement plan stage.

## II. GENERAL

- A. The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. **(MHMC 12.02.090 A; 17.32.010 A)**
- B. The applicant shall have a Final Map prepared by a registered engineer (licensed prior to 01/01/1982: registration number 33,965 or lower) or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be set as required by the City Engineer. **(MHMC 17.20.200 A; 17.20.290; 17.24.010)**
- C. The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the City Engineer prior to submittal of Final Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**
- D. Obtain an encroachment permit from the City of Morgan Hill and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**
- E. Improvement plans are to show water lines, sanitary sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- F. Enter into a Subdivision Improvement Agreement (SIA) with the City of Morgan Hill to cover required improvements. **(MHMC 12.02.150; 17.32.010 B; 17.32.160)**
- G. Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved. **(MHMC 17.20.350 H)**
- H. **IMPACT FEE INCREASE**-The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established impact fees to finance the cost of improvements required by new development. City Code Chapter 3.56.050 provides for automatic annual (July 1<sup>st</sup>) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. The City maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours. **(MHMC 3.56.010; 3.56.030; 3.56.050)**

### **III. STREET IMPROVEMENTS**

- A. The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the City Engineer. All street improvements shall be constructed to the satisfaction of the City Engineer. The timing of the improvements will be determined by the City. **(MHMC 12.02.010; 12.02.090; 17.32.060 B; CMH General Plan; CMH Design Standards and Standard Details for Construction)**
- B. The project shall install and dedicate street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting in conformance with City of Morgan Hill requirements. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010; 17.32.060)**
- C. Dedication of approximately 400 square feet on Depot Street and approximately 2,300 square feet on East Dunne Avenue. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.90; 12.02.100; 17.28.010)**
- D. Underground existing utilities: all existing overhead utilities adjacent to any site boundary or along any street frontage of site shall be placed underground in accordance with City standards and affected utility company guidelines. **(MHMC 12.02.090 B; 17.32.020 E.1)**

### **IV. SANITARY SEWER SYSTEM**

- A. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on the proposed public street(s) or private street(s)/drive aisle(s). The sanitary collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye-branches and laterals, and separate sewer taps to each lot. These are to be installed by the developer. **(MHMC 13.20.355; 17.32.020 C; CMH Sewer System Master Plan; CMH Design Standards and Standard Details for Construction)**
- B. All existing and future sewer lines shall be tied into the City's system and existing septic systems shall be abandoned in accordance with City requirements. **(MHMC 13.24.060; 17.32.20 C)**

### **V. STORM DRAIN SYSTEM**

- A. A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the City Engineer. All needed improvements will be made by the applicant. No overloading of the



existing system will be permitted. **(MHMC 17.32.020 B; 17.32.090; CMH Design Standards and Standard Details for Construction)**

- B. The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Site Review plans. All storm drain improvements shall be constructed to the satisfaction of the City Engineer. **(MHMC 17.32.020 A & B)**
- C. Collection system shall be designed to be capable of handling a 10-year storm without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity. Streets shall be designed to carry a 100-year storm. Items of construction shall include, but not be limited to installation of storm line extension on proposed public street(s), surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. Note: the project may be required to retain stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows. **(MHMC 17.32.020 B; 18.74.440; CMH Design Standards and Standard Details for Construction; CMH Storm Drainage System Master Plan)**
- D. Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the City Engineer.
  - 1. Storm drain calculations to determine detention/retention pond sizing and operations.
  - 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
  - 3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.

**(CMH Design Standards and Standard Details for Construction)**

- E. BMP Tree protection shall be part of the SWPPP inspections.
- F. As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Land Development Engineering. A Waste Discharger Identification (WDID) number will be issued to the construction site after the SWRCB receives and

verifies the submitted ONLINE NOI information. The WIDI number and approved SWPPP Manual shall be provided to Land Development Engineering Division and the Building Division prior to any approval of grading activities (**SWRCB NPDES General Permit CA000002**).

**G. NPDES GENERAL PERMIT SITE SWPPP INSPECTIONS AND COMPLIANCE:**

1. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP or RCE)**.
2. SWPPP Inspections shall occur weekly during the rainy season (September 15<sup>th</sup> thru May 1<sup>st</sup>).
3. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
4. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.
5. Per each of the inspection conditions 2, 3, or 4, the NPDES SWPPP Inspector shall certify in writing to the Building Division and Land Development Engineering Division if the site is in compliance or non-compliance with the NPDES General Permit for Stormwater, site SWPPP Manual, and Water Pollution Control Drawings (per the CMH-SWPPP Inspection Check List to be provided by Land Development Engineering). QSD/QSP SWPPP Inspectors shall forward onsite and offsite information/certification to the Building (on-site private property issues) and Public Works (public right-of-way issues) inspectors respectively.
6. Prior to rain events, BMPs not in compliance will need to be corrected immediately.
7. Illicit discharges per the NPDES General Permit, non-compliance of tracking control, and inlet protection within the public right of way shall be address immediately.
8. Other non-compliance issues need to be addressed within a 24-hour period.
9. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow-up inspection.

\*BMPs maintenance/inspections shall include tree protection if applicable.

**VI. WATER SYSTEM**

- A. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the City Engineer. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the City Engineer and dedicated to the City. (**MHMC 17.32.020 A & D; CMH Design Standards and Standard Details for Construction; CMH Water System Master Plan**)

- B. Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD) Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.
- C. Installation of water line extension on the proposed public streets and/or private streets. **(MHMC 17.32.020 A & D; CMH Water System Master Plan)**
- D. Provide separate water services and meters for each lot. These are to be installed by developer. **(MHMC 17.32.020 D)**

#### **VII. OTHER CONDITIONS**

- A. The owner shall dedicate all necessary utility easements. **(MHMC 12.02.080 D; 17.28.010 A)**
- B. The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the City Engineer. Where City infrastructure is included, City will pay for the permit fees. **(MHMC 17.32.020 E.1)**
- C. The final map on all major subdivision (5 or more lots) shall be approved by the City Council prior to issuance of a grading permit. For minor subdivision (4 lots or less), the final map shall be signed by the City Engineer and the Planning Commission Secretary prior to issuance of a grading permit. **(MHMC 17.20.390; 17.24.210)**
- D. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Homeowner's Association.
- E. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**
- F. Prior to the approval of any Building Permit for grading activity, the developer shall schedule a preconstruction meeting with the Public Works Inspection Division with the following project team members:
  - 1. Civil Engineer of record.
  - 2. Geotechnical Engineer of record.
  - 3. Third Party QSD/QSP SWPPP Inspector.
  - 4. General Contractor.
  - 5. Sub-Contractors.

#### **VIII. NPDES WATER QUALITY STORMWATER MANAGEMENT DEVELOPMENT STANDARDS**



- A. **State Water Resources Control Board Post Construction Requirements (PCRs):** Project shall comply with the California Regional Water Quality Control Board Central Coast Region Resolution No. R3-2013-0032 as documented by the **Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements** (developed from Resolution No. R-2013-0032 Attachment 1 and 2 at: [http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/stormwater/docs/lid/lid\\_hydromod\\_charette\\_index.shtml](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hydromod_charette_index.shtml)). A copy of the guidance manual can be obtained through the Land Development Engineering's internet site. Project shall provide Stormwater Control Plan Checklist and applicable calculations per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements. Project shall meet the applicable requirements of the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements:
1. Performance Requirement 1: Site Design and Runoff Reduction
  2. Performance Requirement 2: Water Quality Treatment
  3. Performance Requirement 3: Runoff Retention
  4. Performance Requirement 4: Peak Management
- B. **Peak Storm Water Runoff Discharge Rates** - Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows.
- C. **Provide Storm Drain System Stenciling and Signage** - Storm drain stencils are highly visible source controls that are typically placed directly adjacent to storm drain inlets. The stencil contains a brief statement that prohibits the dumping of improper materials into the storm water conveyance system. Graphical icons, either illustrating anti-dumping symbols or images of receiving water fauna, are effective supplements to the anti-dumping message. All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: "NO DUMPING – DRAINS TO CREEK") and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area. Legibility of stencils and signs must be maintained.
- D. **Properly Design Trash Enclosure Areas** - All trash enclosure areas must meet the following Structural or Treatment Control BMP requirements (individual single family residences are exempt from these requirements):

1. **Roof Required:** Trash enclosure areas shall have an all-weather noncombustible solid roof to prevent rainwater from mixing with the enclosure's contents
  - a. **Walls Required:** Trash enclosure shall have structural walls to prevent unauthorized off-site transport of trash.
  - b. **Doors:** Trash enclosure shall have door(s) which can be secured when closed.
  - c. **Grades:** The pad for the enclosure shall be designed to not drain outward, and the grade surrounding the enclosure shall be designed to not drain into the enclosure.
  - d. **Drain Inlet:** Within the enclosure, an area drain with an approved (Zurn) vandal proof drain shall be installed and shall be plumbed to the sanitary sewer system with grease trap. Grease trap shall be located within the trash enclosure footprint.

**E. Design Standards for Structural or Treatment Control BMPs** - The post-construction treatment control BMPs shall incorporate, at a minimum, either a volumetric or flow-based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) storm water runoff:

**1. Volumetric Treatment Control BMP**

- a. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or
- b. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or
- c. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.

**2. Flow Based Treatment Control BMP**

- a. The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area; or
- b. The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.

**F. Stormwater Runoff Management Plan (SWRMP) required** - The stormwater runoff management plan shall include sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures (post construction BMPs) proposed for managing stormwater runoff.

1. The stormwater runoff management plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved stormwater runoff management plan.
2. The chief engineer or designee may require a developer to provide a signed certification from the civil engineer responsible for preparing the stormwater runoff management plan that all stormwater best management practices have been designed to meet the requirements of this chapter.
3. Each certifying civil engineer shall establish to the city's satisfaction that such person has been trained on the design of stormwater quality best management practices not more than three years prior to the certification signature date.
4. Qualifying training shall be conducted by an organization with stormwater quality management expertise, such as a university, the Bay Area Stormwater Management Agencies Association, the American Society of Civil Engineers, the American Public Works Association, or the California Water Environment Association.

**G. Stormwater BMP operation, maintenance, and replacement responsibility**

1. All on-site stormwater management facilities shall be operated and maintained in good condition and promptly repaired/replaced by the property owner(s), an owners' or homeowners' association or other legal entity approved by the city.
2. Any repairs or restoration/replacement and maintenance shall be in accordance with city-approved plans.
3. The property owner(s) shall develop a maintenance schedule for the life of any stormwater management facility and shall describe the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be included with the approved stormwater runoff management plan.

**H. Stormwater BMP operation and Maintenance Agreement (SWBOMA) required** - Improper maintenance is one of the most common reasons why water quality controls will not function as designed or which may cause the system to fail entirely. It is important to consider who will be responsible for maintenance of a permanent BMP, and what equipment is required to perform the maintenance properly.

1. Prior to the issuance of any building permit requiring stormwater management BMPs, the owner(s) of the site shall enter into a formal written stormwater BMP operation and maintenance agreement with the city. The city shall record this agreement, against the property or properties involved, with the County of Santa Clara and it shall be binding on all subsequent owners of land served by the storm water management treatment BMPs (City standard STORMWATER BMP OPERATION AND MAINTENANCE AGREEMENT to be provided by Land Development Engineering).
2. The stormwater BMP operation and maintenance agreement shall require that the BMPs not be modified and BMP maintenance activities not alter the designed function of the facility from its original design unless approved by the city prior to the commencement of the proposed modification or maintenance activity.
3. The stormwater BMP operation and maintenance agreement shall provide that in the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the city shall have the authority to perform maintenance and/or repair work and to recover the costs from the owner.

**I. Stormwater BMP inspection responsibility**

1. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a **Register Civil Engineer (RCE)**.
2. Unless otherwise required by the chief engineer or designee, stormwater facility inspections shall be done at least twice per year (April 15<sup>th</sup> and September 15<sup>th</sup>) by the RCE. Written records shall be kept of all inspections and shall include, at minimum, the following information:
  - a. Site address;
  - b. Date and time of inspection;
  - c. Name of the person conducting the inspection;
  - d. List of stormwater facilities inspected;
  - e. Condition of each stormwater facility inspected;
  - f. Description of any needed maintenance or repairs; and
  - g. As applicable, the need for site re-inspection.
3. Upon completion of each inspection, an inspection report shall be submitted to Land Development Engineering.



- J. **Records of maintenance and inspection activities** - On or before April 15<sup>th</sup> and September 15<sup>th</sup> of each year, the party responsible for the operation and maintenance of on-site stormwater management facilities under the BMP operation and maintenance agreement shall provide the chief engineer or designee with records of all inspections, maintenance and repairs.
- K. **Annual Certification of SWRMP** – On or before September 30<sup>th</sup> of each year a Registered Civil Engineer (RCE) shall provide written certification that the developments stormwater quality design standards are properly maintained and functioning as required by the SWRMP.

**IX. HABITAT CONSERVATION**

- A. The approved project is covered under the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.
  - B. Prior to issuance of building permits or grading permits the project shall complete and submit a Habitat Plan Application Package. All fees must be paid prior to issuance building permits or grading permits.
  - C. Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt).
- X. **Mitigation Monitoring Reporting Program**. Applicant shall comply with and be responsible for implementing the mitigation measures and standard measures identified in the Initial Study for this project dated August 2019.

**FINDINGS FOR DOWNTOWN SPECIFIC PLAN, GENERAL PLAN AND ZONING  
ORDINANCE CONSISTENCY  
SR2019-0003**

**Downtown Specific Plan**

The vision statement of the specific plan is: "Strengthening Downtown as the gathering place, a connecting force, the social and activity heart of Morgan Hill, is the overriding aspiration of this Plan - a place where residents from all segments of the community can live, work, meet, shop, dine and participate in public celebrations, and share in the richness of Morgan Hill's community life. It will be a place like nowhere else - a place with its own scale, character and uses." The plan encourages a wide diversity of retail and office uses including new homes and apartments to support the downtown businesses. The Plan also includes a Design Guideline Chapter 5 with a wide range of architecture and landscape requirements. The project has been analyzed for consistency with the Design Guidelines Chapter 5 and is consistent.

**General Plan**

The General Plan land use designation for the 2.29-acre redevelopment portion of the site is designated as Mixed Use with the remaining 2.9-acre (CCC parking lot) portion of the site designated as Public Facilities.

The Mixed Use designation applies to the majority of the parcels in and round the core of the Downtown area and in intended to encourage a mixture of retail uses and residences consistent with the Downtown Specific Plan. The project proposes 49 residential townhome style condominiums and lofts and includes 3,076 square feet of office space to be utilized for non-profits businesses.

The Public Facilities designation is applied to land used by public or quasi-public agencies and organizations. In this case it is the Community and Cultural Center parking lot that will allow for the realignment of Depot Street to connect to East Dunne Avenue and Church Street intersection to be consistent with the Transportation Element of the General Plan.

**Policy CNF-14.1 Mixture of uses Downtown.** Encourage a mixture of uses in the Downtown that will promote its identity as a cultural and activity center of the City.

The project introduces residential and office space near the existing cultural center. The mixture of proposed uses are complementary to the surrounding uses and will support one another.

**Policy CNF-14.3 Downtown Specific Plan.** Support the implementation of the Downtown Specific Plan.

The Downtown Specific Plan analyzed a variety of infrastructure services and

improvements needed to meet demands of current and future residents and businesses including transportation, water, sewer, storm drainage, solid waste, and energy systems. The plan stated development assumptions for 874 housing units and 182, 839square feet of office space by 2030. While Downtown has seen some recent investments in housing and retail, the existing housing development and office space are below projections.

Table 1.1  
Downtown Specific Plan Growth Projections

Land Use	Existing Development 2009	Development by 2015	Current Development 2019	Development by 2030
	Projected	Projected	Current/Under Construction	Projected
<b>Residential (dwelling units)</b>	193	739	663	874
<b>Office/Service (square feet)</b>	122,248	152,405	123,778	182,839

This project supports the implementation of the Specific Plan by relocating a non-conforming industrial use outside the downtown core, and developing the site with conforming uses such as housing and office space.

**Policy CNF-14.4 Downtown Retail Uses.** Encourage a mix of retail uses in the Downtown, such as specialty retail, office, entertainment, and other retail uses, with offices located away from Monterey Road or on upper floors along Monterey Road.

Downtown office square footage has remained roughly the same sense the adoption of the Downtown Specific Plan in 2009. The plan invasions Monterey road as the main core area for retail with supporting retail, residential and office space pushed back is the cross streets of downtown and off Depot Street. This project is consistent with the General Plan Policy in bringing 3,076 square feet of office space to the downtown and locating the office space away from Monterey Road.

#### The Transportation Element

The Transportation Element within the 2035 General Plan offers mechanisms for making Morgan Hill a safe and efficient place to travel, whether by train, bus, car, bike or foot. The City's transportation system envisioned a coordinated combination of public transit, private vehicles, biking, and walking. A key focus during the General Plan horizon is construction of new roadways and segments that will fill in "missing links" and provide for increased connectivity of the roadway system. The City has the opportunity to realign Depot Street through the CCC parking lot with redevelopment of the adjacent property currently utilized as a lumber yard business (Hale Lumber). The project is consistent with the following policies:

**Policy TR-3.3 Timing of Street Construction from Private Development.** Require developers to provide for the construction of their portions of arterial and collector streets at the time of development.

It is ideal that the redevelopment project is incorporating the realignment of Depot Street as part of one overall project. This allows for one time construction near existing residents and the CCC, and provides the complete design for the vacated portion of Depot Street and addresses the interface of the redevelopment project site area with the CCC.

**Policy TR-3.15 Depot Street Rerouting and Extension.** In order to provide a continuous north-south travel route to, from, and within Downtown, re-route Depot Street south through the existing Community and Cultural Center parking lot to connect to Church Street, and explore the feasibility of extending Depot Street north to curve over and connect to McLaughlin through to Central Avenue.

The City Engineer found the proposed realignment to enhance circulation in Downtown by:

- Removing a conflict point through the elimination of an off-set intersection
- Eliminating an intersection within close proximity to the UPRR tracks ( $\pm 120$  ft.)
- Providing a direct connection to a four-way signalized intersection
- Creating a bike and pedestrian friendly roadway
- Engineering a curvilinear roadway to prevent speeding
- Eliminating the existing cut-through traffic within the CCC parking lot

1. The proposed project complies with all applicable provisions of the Zoning Code and Municipal Code.

The proposal is consistent with all provisions in the Zoning Code which is consistent with the Downtown Specific Plan requirements.

2. The proposed project substantially complies with all applicable design standards and guidelines contained in the Design Review Handbook.

Chapter 5: Design Guidelines as part of the Downtown Specific Plan supersede the regulations within the Design Review Handbook. A consistency chart was prepared (Attachment 3.) and the project is found to be consistent with all design guidelines in that chapter.

3. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).



An initial study was prepared and the project and found the project to be consistent with the Downtown Specific Plan MEIR pursuant to Sections 15177(b) and 15179(b) of CEQA Guidelines as further explained at the end of this report.

4. The proposed project development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

The redevelopment of the Hale Lumber site and realignment of Depot Street through the CCC parking lot is part of the vision for both the General Plan and Downtown Specific Plan. The project will not be detrimental to the public health as analyzed within the Initial Study. The project and circulation was designed to Vision Zero standards and therefore will not be detrimental to public safety or welfare. The project enhances public access by adding sidewalks and will comply with SWIPP and Building Code requirements, therefore will not be materially injurious to the properties or improvements in the vicinity.

5. The proposed project complies with all Design Review criteria in subsection H. of Section 18.108.040 of the municipal code.

Chapter 5: Design Guidelines as part of the Downtown Specific Plan supersede the regulations within the Design Review Handbook. The project is found to be consistent with the standards outlined in Chapter 5 of the Downtown Specific Plan. A consistency chart was prepared (Attachment 3.) and the project is found to be consistent with all design guidelines in that chapter.

6. For new residential development, the project complies with commitments made through the residential development Control System (RDCS).

The project received approval of a RDSC Development Agreement on March 20, 2019. The project is found to be consistent with all commitments required prior to Design Review Approval of the DA. A consistency chart was prepared (Attachment 4.) and the project is found to be consistent with the commitments

## **Zoning Ordinance**

The Project site has a Downtown Mixed Use (MU-D) zoning designation. The purpose of the Downtown Mixed Use (MU-D) zoning district is to preserve and enhance Downtown as the heart of Morgan Hill and the center of the community. New development supports a walkable Downtown district with active storefronts and a diversity of commercial, residential, and public uses. The intensity of residential uses enhances economic vitality, increases housing options for residents of all ages, and support a vibrant and diverse destination for residents and visitors. The MU-D zoning district implements the community's vision for Downtown Morgan Hill as described in the Downtown Specific Plan.