

## **RESOLUTION NO. 21-17**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A DESIGN PERMIT FOR A 66-UNIT, MULTI-FAMILY AFFORDABLE RESIDENTIAL COMMUNITY AND A CONDITIONAL USE PERMIT FOR A “GREEN PARKING EXEMPTION” FOR PROPERTY LOCATED AT 17965 MONTEREY ROAD FOR MONTEREY-FIRST COMMUNITY HOUSING (MAGNOLIAS) (APN 764-12-006)**

**WHEREAS**, on February 23, 2021, First Community Housing submitted an application for a Design Permit for a 66-unit, multi-family affordable residential community and a Conditional Use Permit for a “Green Parking Exemption to allow reduced parking lot landscaping when solar panels are provided (SR2021-0005/UP2021-0006/EA2021-0005: Monterey-First Community Housing (Magnolias)); and

**WHEREAS**, such requests were considered by the Planning Commission at its meeting of November 23, 2021; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA) the City completed an Initial Study to determine whether the project could have a significant effect on the environment; and

**WHEREAS**, the project was found to be exempt from CEQA pursuant to CEQA Guidelines Section 15332, Class 32 (In-fill development); 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.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES  
RESOLVE AS FOLLOWS:**

#### **SECTION 1. Recitals.**

The Planning Commission has considered the full record before it, which may include but not limited to such things as the staff report, public testimony, and other materials and evidence submitted or provided. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

## **SECTION 2. California Environmental Quality Act Finding**

Finding: The Initial Study prepared for the Project has been completed in compliance with CEQA and consistent with state and local guidelines implementing CEQA.

The Planning Division of the City of Morgan Hill prepared an Initial Study for the Monterey-First Community Housing Project (Planning File No's. SR2021-0005/UP2021-0006/EA2021-0005: Monterey-First Community Housing (Magnolias)) in accordance with the requirements of the California Environmental Quality Act of 1970, as amended ("CEQA"), and state and local guidelines implementing CEQA; and

## **SECTION 3. Design Permit Findings (MHMC Section 18.101.040.J)**

Finding: The project is consistent with the Zoning Ordinance, and General Plan.

The City of Morgan Hill 2035 General Plan designates the site as Mixed-Use Flex which permits a mix of residential, commercial, and office uses applied either vertically or horizontally. The Mixed-Use Flex designation allows 7 to 24 units per acre and a maximum Floor Area Ratio (FAR) of 0.5. Because the proposed project would develop 100 percent deed-restricted affordable housing for lower income households, the proposed project is eligible to utilize an 80 percent density bonus above the base density in accordance with Government Code Section 65915(f)(3)(D)(i). The proposed project would include multi-family residential uses at a density of 44 du/ac. Thus, the proposed project would be consistent with the General Plan land use designations with approval of the density bonus. SB 330 supersedes the Municipal Code requirement of a BLMP/PD Master Plan/Conditional Use Permit required for housing on this site.

Finding: The project is subject to the SB 330 permit streamlining process and has been designed consistent with the City's Design Review Criteria and the City's Residential Development Design and Development Standards.

The proposed project substantially complies with all applicable design standards and guidelines contained in the Design Review Handbook and the City's adopted Residential Development Design and Development Standards. The project was granted four density bonus design concessions by the City Council (Resolution No. 21-017) on April 21, 2021. In addition, the project is entitled to design waivers, as allowed by density bonus law. The project has been granted waivers for building height, floor area ratio, tree replacement and setbacks along Monterey Road.

Finding: 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 development site is not located adjacent to any wildlands that could expose people or structures to wildfire risks. The project site is not located within an earthquake fault

zone. In addition, the project will comply with stormwater and building code requirements. The project will not be detrimental to the public health, safety, or welfare, and will not be materially injurious to the properties or improvements in the vicinity.

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

The project as proposed complies with all criteria in subsection H of Section 18.108.040 (Design Review Criteria) of the Morgan Hill Municipal Code as demonstrated in the staff report.

#### **SECTION 4. Conditional Use Permit Findings (MHMC Section 18.108.030.E)**

Finding: The proposed use is allowed in the applicable district.

The project site is located in the MU-F Zone District. Typically to develop multi-family dwellings within this district, a PD Master Plan, BLMP and Conditional Use Permit would be required; however, SB 330 supersedes these requirements. The multi-family development, with photovoltaic canopies is an allowed use. Pursuant to Section 18.72.070.H (Green Parking Exemptions) of the Morgan Hill Municipal Code, reduced parking lot landscaping is permitted with a Conditional Use Permit when photovoltaic canopies are provided.

Finding: The proposed use is consistent with the general plan, zoning code, and any applicable specific plan or area plan adopted by the city council.

The City of Morgan Hill 2035 General Plan designates the site as Mixed-Use Flex which permits a mix of residential, commercial, and office uses applied either vertically or horizontally. The project has been designed to substantially comply with the City's Residential Development Design and Development Standards which are the City's "Objective" design standards, and have been developed consistent with the Morgan Hill 2035 General Plan.

The project is subject to the California Green Building Standards Code, otherwise known as the CALGreen Code (CCR Title 24, Part 11). The purpose of the CALGreen Code is to improve public health, safety, and general welfare by enhancing the design and construction of buildings through the use of building concepts having a reduced negative impact or positive environmental impact and encouraging sustainable construction practices. The CALGreen Code requires some single-family and low-rise residential development developed after January 1, 2020, to include solar energy systems capable of producing 100 percent of the electricity demand created by the residence(s). The project is implementing CALGreen requirements with the installation of solar panels. Landscaping will be provided throughout the site; however, the required shade trees will be reduced directly adjacent to the carports where it would negatively impact solar

generation, requiring the “Green Parking Exemption” through the issuance of a Conditional Use Permit.

Finding: The site is suitable and adequate for the proposed use.

The multi-family development, with photovoltaic canopies is an allowed use. New landscaping will include trees, screen planting, and garden planters that will enhance the surrounding area and are appropriate to the site.

Finding: The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the property.

The photovoltaic canopies are for the use of the multi-family development. The “Green Parking Exemption” would allow a reduced shade tree requirement adjacent to the photovoltaic canopies where they would negatively impact solar generation. The granting of a “Green Parking Exemption” through the issuance of a Conditional Use Permit would not impact existing or future land uses in the vicinity.

Finding: The proposed use will not be detrimental to the public health, safety, and welfare.

The “Green Parking Exemption” which would allow a reduced shade tree requirement directly adjacent to the photovoltaic canopies would not adversely affect the public health, safety, and welfare of persons residing within the development. The project development will be providing ample landscaping throughout the site.

Finding: The proposed use would not have a substantial adverse effect in traffic circulation and on the planned capacity of the street system.

The Conditional Use Permit for the “Green Parking Exemption” will not impact traffic circulation or the capacity of the street system, as the request would reduce the number of shade trees located adjacent to the photovoltaic canopies only.

Finding: The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

The property is located within City limits and the City’s Urban Service Area. Water and sewer are adequately provided by the City, while electricity will be provided by PG&E.

**SECTION 5.** The Planning Commission approves SR2021-0005/UP2021-0006/EA2021-0005: Monterey-First Community Housing (Magnolias). This permit 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 Development Services Director when consistent with the overall intent of the project.

**PASSED AND ADOPTED THIS 23rd DAY OF NOVEMBER 2021, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

**PASSED AND ADOPTED THIS 26TH DAY OF JUNE 2018, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

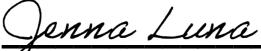
**AYES: COMMISSIONERS:** KUMAR, GONZALEZ-ESCOTO,  
MUELLER, DOWNEY, HABIB

**NOES: COMMISSIONERS:** TANDA

**ABSTAIN: COMMISSIONERS:** NONE

**ABSENT: COMMISSIONERS:** NONE

**ATTEST:** **APPROVED:**

  
**JENNA LUNA, Deputy City Clerk**

  
**MALISHA KUMAR, Chair**

**Date:** 11/24/2021

## **EXHIBIT "A" STANDARD CONDITIONS**

**APPLICATION NO: SR2021-0005/UP2021-0006/EA2021-0005: Monterey-First  
Community Housing (Magnolias)**

**THE FOLLOWING APPROVAL REQUIREMENTS AND ANY SPECIAL CONDITIONS  
SHALL BE APPLIED THROUGH THE DEVELOPMENT APPROVAL PROCESS.**

### Legend

MHMC= Morgan Hill Municipal Code

MHARH= Morgan Hill Architectural Review Handbook

CMH= City of Morgan Hill

CFC= California Fire Code

### **I. PROJECT DESCRIPTION**

The proposed project would consist of a 66-unit, multi-family affordable residential community. The 89,000 square foot building would include 16 studio units, 16 one-bedroom units, 17 two-bedroom units, and 17 three-bedroom units. The building would be 68 feet in height. Four floors would be designated for residential use, and the ground floor would contain an entry plaza, office suite, bike storage room, clubhouse, laundry room, pet wash station, storage, and maintenance facilities. Level five would include two unenclosed roof decks. Site amenities include a garden/recreation area, half-court basketball and recreation area, and playground.

### Concessions/Design Waivers

1. Design Standard No. 26- Exterior Treatments and Materials: The Residential Development Design and Development Standards require projects to provide a minimum of two materials on any one building façade, and that any one material must comprise at least 20 percent of the façade. The project is using variations in color and surface orientation to provide cost-effective visual breaks to help break down the scale of the building.
2. Design Standard No. 30- Building Colors: The Residential Development Design and Development Standards limit the number of colors appearing on any building exterior to no more than four. The project is providing three colors of various tones, and one neutral light gray, for a total of nine total individual colors.
3. Design Standard No. 31- Window Design: The Residential Development Design and Development Standards require window recesses, trim and other window elements. The design provides a trim-less window detailing.

4. Design Standard No. 39- Multi-family Roof Form: The Residential Development Design and Development Standards require the roof element of the multi-family project be designed such that no more than two side-by-side units are covered by one unarticulated roof. To take advantage of the modular building techniques to be used, a flat roof with parapets has been selected.
5. Height: The maximum height requirement for development in MU-F sites is 45 feet, with 10 feet devoted to a roof element. The project includes a maximum height of 68 feet.
6. Floor Area Ratio: The maximum FAR for project sites zoned MU-F in the City is 0.5. The FAR on the site will be 1.4.
7. Design Standard No. 12- Trees: The project is not providing the required 2:1 replanting ratio.
8. Monterey Road Setback: The minimum front setback is 15 feet. The project is providing a 10-foot setback.

The project shall comply with all requirements of related project approvals granted by the City, including all of the following:

- A. Design Review SR2021-0005
- B. Conditional Use Permit UP2021-0006
- C. Environmental Assessment EA2021-0005

## **II. PROJECT CONDITIONS OF APPROVAL**

This Design Permit approval is limited to the plan set date stamped April 19, 2021 (File Number SR2021-0005) on file with the Development Services Department. The approved building plans and landscape plans must be in substantial conformance with the Design Permit plans as determined by the Development Services Director. These documents show the location and dimensions of all vehicle and pedestrian circulation ways (ingress/egress), common areas, and other easement areas.

It shall be the responsibility of the Owner to ensure 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 incorporated herein.

## **PLANNING DIVISION**

### **DEFENSE AND INDEMNITY**

A. **Indemnification:** As part of, and in connection, with this application to the City of Morgan Hill, 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 application 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 the Applicant or 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.

### **TIME LIMITS**

A. **Term:** The Design Permit approval granted pursuant to this Resolution shall remain in effect for two years to November 23, 2023. 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. **(MHMC 18.108.040)**

### **SITE DEVELOPMENT**

A. **Final Site Development Plans:** Final site development plans shall be reviewed for conformance with the SERA Design plans dated April 19, 2021 (SR2021-

0005) and in accordance with Morgan Hill Municipal Code Section 18.108.040 (Design Permit) and approved by the Development Services Department prior to issuance of a building permit. All such plans shall include:

1. Detail depicting all concrete curbs as full formed.
2. 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.
3. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities.
4. 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, berthing, 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.
5. 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.

B. **Pedestrian Access:** The Project shall provide pedestrian walkways in compliance with ADA requirements and with Section 18.72.060.H of the Morgan Hill Municipal Code, which states the following:

1. Parking lots with more than thirty parking spaces shall include a pedestrian walkway in compliance with ADA requirements.
2. The design of the pedestrian walkway shall be clearly visible and distinguished from parking and circulation areas through striping, contrasting paving material, or other similar method as approved by the Development Services Director.

C. **Bicycle parking.** The project shall provide short-term and long-term bicycle parking spaces in conformance with Section 18.72.080 and Table 18.72-7 of the Morgan Hill Municipal Code:

**Table 18.72-7: Required Bicycle Parking Spaces**

Land Use	Required Bicycle Parking Spaces
	Short-Term Spaces
Multi-family dwellings	10 percent of required automobile spaces; min. of 4 spaces

1. **Short-Term/Class II Bicycle Parking Standards.** Short-term bicycle parking shall be located within one hundred feet of the primary entrance of the structure or use it is intended to serve.
2. **Parking Space Dimensions.**
  - a. Minimum dimensions of two feet by six feet shall be provided for each bicycle parking space.
  - b. An aisle of at least five feet shall be provided behind all bicycle parking to allow room for maneuvering.
  - c. 2 feet of clearance shall be provided between bicycle parking spaces and adjacent walls, polls, landscaping, pedestrian paths, and other similar features.
  - d. Four feet of clearance shall be provided between bicycle parking spaces and adjacent automobile parking spaces and drive aisles.
3. **Rack Design.** Bicycle racks must be capable of locking both the wheels and the frame of the bicycle and of supporting bicycles in an upright position.

The location of all bicycle parking spaces shall be identified prior to issuance of a building permit.

D. **Electric Vehicle Charging Stations:** The Project shall provide electric vehicle charging stations in compliance with Section 18.72.040.C of the Morgan Hill Municipal Code. The project is required to provide two charging stations, plus one for each additional fifty parking spaces. The developer shall provide location of each charging station prior to issuance of building permit.

E. **Tree Protection:** Unless tree removal has been previously approved, all trees located within 25 feet of any site disturbance shall be protected using the following minimum protection measures (these guidelines shall be included with all site development plans):

1. Mark all trees to be saved with a survey flag or ribbon. Do not nail or staple directly to the tree.
2. Erect a temporary fence enclosing an area equal to at least the dripline of the tree (or as far from the trunk as possible). This tree protection zone

shall not be used for parking, storage of building materials, or other equipment or the placement of temporary or permanent fill. Signs should be posted identifying the restriction of uses in the tree protection zone.

3. Locate structures, grade changes, and other ground or surface disturbances (e.g. concrete pours) as far as feasible from the “dripline” area of the tree.
4. Avoid root damage through grading, trenching, and compaction, at least within an area 1.5 times the dripline area of the tree. Where root damage cannot be avoided, roots encountered over 1 inch in diameter should be exposed approximately 12 inches beyond the area to be disturbed (towards the tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or power saw and immediately back-filled with soil. Avoid tearing or otherwise disturbing that portion of the roots to remain.
5. The addition of plant or other landscaping materials shall remain outside of the dripline of all trees.
6. All trees proposed to be removed from the project site shall be replaced at a 1:1 ratio. Replacement trees shall be consistent with the City of Morgan Hill Master Street Tree. All replacement trees shall be a minimum of 15-gallons in size. All mitigation/replacement trees shall be shown on the landscape plans and approved by the Development Services Director prior to the issuance of the building/grading permit.
7. Any tree subject to Chapter 12.32 Restrictions on Removal of Significant Trees of the Morgan Hill Municipal Code requires approval from the Planning Division. The applicant shall request approval prior to removing any significant trees.

## **BUILDING DESIGN**

- A. **Roof mounted mechanical equipment:** 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 feet or greater to match the height of any proposed equipment. (**MHARH p.48, 65, 87, 106**)
- B. **Building mounted lighting:** Lighting fixtures shall not project above the facia or roofline of the building. Any ground mounted lighting projecting onto the building or site shall be subject to the review and approval of the Development Services Director. Adjustment to the lighting intensity may be required after the commencement of the use. (**MHARH p. 67, 109**)

C. **Architectural elements:** A final site development plan shall be provided at the building permit stage for review and approval to the Development Services Director prior to issuance of a building permit.

1. 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.
2. 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.

## **PARKING, VEHICULAR ACCESS AND LANDSCAPING**

A. **Parking lot landscaping:** All landscaping within parking lots shall comply with the requirements of Chapter 18.72 (Landscaping) in addition to the standards within this section, subject to the Green Parking Exemption granted by this Conditional Use Permit, allowing reduced parking lot landscaping to accommodate the photovoltaic canopies and bioswales.

1. **Interior Landscaping.** All areas within a parking lot not utilized for parking spaces or access/circulation shall be landscaped. Interior landscaping is defined as any landscaped area surrounded on at least two sides by parking spaces or drive aisles, and excluding areas around the perimeter of the parcel or development site. With the Green Parking Exemption granted by this Conditional Use Permit, the project shall provide 3,370 square feet of landscaping and 2,899 square feet dedicated for bioswale.
2. **Shade Trees.**
  - a. Shade trees shall be a minimum twenty-four-inch box in size and shall provide a minimum thirty-foot canopy at maturity.
  - b. Shade trees shall be of a type that can reach maturity within fifteen years of planting and shall be selected from a city-recommended list of canopy tree species.
  - c. Shade trees shall be arranged in a parking lot to provide maximum shade coverage (based on a thirty-foot canopy) on August 21. The arrangement should approximate nearly fifty percent shade coverage.
3. **Concrete Curbs.**
  - a. All landscape areas shall be separated from parking spaces, drive aisles and driveways by a continuous, raised concrete curb. Raised concrete curbs shall be a minimum of six inches high by four inches deep.
  - b. The city may approve alternatives to raised concrete curbs as

needed to comply with any mandatory stormwater drainage standards.

4. **Parking Space Landscaping.** A maximum of two feet at the front end of a parking space may be landscaped with low shrubs or ground cover in which a vehicle could extend over in lieu of paving surface. This landscaping may not count toward minimum required parking lot landscaped area.
5. **Timing.** Landscaping shall be installed prior to the city's authorization to occupy any buildings served by the parking area, or prior to the final inspection for the parking lot.
6. **Green Parking Exemptions.** The project has incorporated solar panels, bioswales, and other similar green features not otherwise required by post construction stormwater requirements and is eligible for reduced parking lot landscaping requirements, and a Conditional Use Permit has been granted to allow a reduction in parking lot landscaping requirements as detailed in the project landscape plans.

B. **Planting and irrigation working drawings:** Detailed landscape planting and irrigation working drawings shall be submitted to the Development Services Director for approval prior to issuance of building permits. Landscape plans for streets and landscape easements shall be part of the improvement plan submittal.

C. **Lighting:** Walkways and pedestrian pathways in landscaped areas or common areas not considered building entrances or a part of parking lot areas shall be illuminated with a minimum of one (1) foot-candle to ensure safe nighttime conditions. **(MHARH p.30, 67, 108)**

1. A final photometric plan shall be provided at the building permit stage for review and approval to the Development Services Director prior to issuance of a building permit.

D. **Maintenance of landscaping:** The landscaping installed and accepted with this project shall be maintained on the site as stated within the approved plans. Any alteration or modification to the landscaping shall not be permitted unless otherwise approved by the Development Services Director.

E. **Water Conserving Landscape Ordinance:** The landscape plans shall be in conformance with the City's Water Conserving Landscape Ordinance that was developed in accordance with California law. This Ordinance restricts landscaping turf to certain areas, specifies plant selection, requires certain types of irrigation equipment, and calls for the development of comprehensive water use calculations as an aspect of the submitted landscape plans. **(MHMC 18.64)**

## SIGNS

A. **Separate application required for sign approval:** Signs proposed for this development shall be designed in conformance with the Sign Ordinance and shall require separate application and approval by the Planning Division prior to installation of any signs.

## BIOLOGICAL RESOURCES

A. **Preconstruction Survey:** If construction is proposed during the breeding season (February 1 to August 31), a pre-construction nesting survey for raptors and other protected migratory birds shall be conducted by a qualified biologist and submitted to the City of Morgan Hill Development Services Department for review no more than 14 days prior to the start of construction. Pre-construction surveys during the non-breeding season (September 1 to January 31) are not necessary for birds, including roosting raptors, as they are expected to abandon their roosts during construction. If these species are deemed absent from the area, no further mitigation is required, and construction may occur within 14 days following the survey during the early nesting season (February to May) and within 30 days following the survey during the late nesting season (June to August).

If nesting migratory birds or raptors are detected on or adjacent to the site during the survey, a suitable construction-free buffer shall be established around all active nests. The precise dimension of the buffer (250-foot minimum for certain raptors) shall be determined by the qualified biologist at that time and may vary depending on location, topography, type of construction activity, and species. The buffer areas shall be enclosed with temporary fencing, and construction equipment and workers shall not enter the enclosed setback areas. Buffers shall 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.

## HABITAT PLAN

A. **Fees:** The approved project is covered pursuant to the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.

B. **Application Package:** Prior to issuance of a grading permit, the project shall complete and submit a Habitat Plan Application Package. All fees shall be paid prior to issuance of a grading permit. (**MHMC 18.132**)

C. **Conditions:** 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). (**MHMC 18.132**)

## AIR QUALITY

**A. Basic Construction Mitigation Measures (BCMMs) related to dust suppression.** The following measures shall be implemented with the project:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. 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.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. 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.
6. 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.
7. 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.
8. 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.

B. **Management Plan:** The project applicant shall prepare, and include on all site development and grading plans, a management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project. Pursuant to Section 18.76.040 (Air contaminants) of the City's Municipal Code, the management plan shall include all applicable BAAQMD rules and regulations, as well as the City's standard conditions for construction activities. The City of Morgan Hill Development Services Department would ensure that all conditions are noted on project construction drawings prior to issuance of a building permit or approval of improvement plans.

## CULTURAL RESOURCES

A. **Significant historic or archaeological materials:** A moderate potential exists for unrecorded historic-period archaeological resources to be within the project area. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply:

1. Prior to start of grading or earthmoving activity on the “first day of construction”, the archeologist and Tamien Nation Tribal Monitor shall hold a pre-construction meeting for the purposes of “cultural sensitivity training” with the general contractor and subcontractors.
2. An archaeologist and a Tamien Nation Tribal Monitor shall be present on-site to monitor all ground-disturbing activities. Where historical or archaeological artifacts are found, work in areas where remains or artifacts are found will be restricted or stopped until proper protocols are met, as described below:
  - a. Work at the location of the find shall halt immediately within fifty feet of the find. If an archaeologist is not present at the time of the discovery, the applicant shall contact an archaeologist for evaluation of the find to determine whether it qualifies as a unique archaeological resource as defined by this chapter;
  - b. If the find is determined not to be a Unique Archaeological Resource, construction can continue. The archaeologist shall prepare a brief informal memo/letter in collaboration with a tribal representative that describes and assesses the significance of the resource, including a discussion of the methods used to determine significance for the find;
  - c. If the find appears significant and to qualify as a unique archaeological resource, the archaeologist shall determine if the resource can be avoided and shall detail avoidance procedures in a formal memo/letter; and
  - d. If the resource cannot be avoided, the archaeologist in collaboration with a tribal representative shall develop within forty-eight hours an action plan to avoid or minimize impacts. The field crew shall not proceed until the action plan is approved by the Development Services Director. The action plan shall be in conformance with California Public Resources Code 21083.2. An archaeologist shall be present on-site to monitor all ground disturbing activities. Where historical or archaeological artifacts are found, work in areas where remains or artifacts are found will be restricted or stopped until proper protocols are met, as described below:
3. The following policies and procedures for treatment and disposition of

inadvertently discovered human remains or archaeological materials shall apply. If human remains are discovered, it is probable they are the remains of Native Americans,

- a. If human remains are encountered, they shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need to know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.
- b. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
- c. Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.

4. In the event that known or suspected Native American remains are encountered, or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. 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, ground stone 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 exclusion zone as defined below.
5. 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 and tribal representative (typically twenty-five to fifty feet for single burial or archaeological find).
6. 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.
7. 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:

- The City of Morgan Hill Development Services Director (408) 779-7247
- The Contractor's Point(s) of Contact
- The Coroner of the County of Santa Clara (if human remains found) (408) 793-1900
- The Native American Heritage Commission (NAHC) in Sacramento (916) 653-4082
- The Amah Mutsun Tribal Band (916) 481-5785 (H) or (916) 743-5833 (C)
- The Tamien Nation (707)295-4011 (office) and (925)336-5359 (THPO)

8. 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.
9. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD). (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
10. Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.
11. Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Development Services 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 appropriate tribe may be considered and carried out.
12. 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.

## NOISE

- A. **Construction Hours:** The project shall comply with Chapter 8.28 of the Morgan Hill Municipal Code which prohibits construction activities between 8:00 PM and 7:00 AM, Monday through Friday, and between 6:00 PM and 9:00 AM on

Saturdays. Construction activities may not occur on Sundays or federal holidays. The above language shall be included on final project improvement plans prior to issuance of a grading permit by the City of Morgan Hill Development Services Department.

- B. **Windows:** To comply with the General Plan's interior noise level criteria including a factor of safety, the windows shall be upgraded to the minimum STC rating indicated in the Bollard Acoustical Consultants report dated September 21, 2021 (Figures 4 and 5). Figure 4 shows the locations and associated STC ratings needed for bedroom windows. Figure 5 illustrates the locations and associated STC ratings required for all other habitable room windows.
- C. **Air Conditioning:** Mechanical ventilation (air conditioning) shall be provided to all residences of the development to allow the occupants to close doors and windows as desired for additional acoustical isolation.
- D. **Disclosure:** Disclosure statements shall be provided to all prospective residents of this development notifying them of elevated noise levels during railroad passages, particularly during nighttime operations and periods of warning horn usage.
- E. **Generator:** The emergency standby generator model ultimately selected for installation within the proposed fenced enclosure shall not exceed an overall sound level of 50 dB at a distance of 23 feet. Due to the power requirements of the development and the proximity of adjacent property lines, the selected generator may need to be equipped with a custom engineered acoustical enclosure to reduce equipment sound levels to 50 dB (or less) at a distance of 23 feet.

## **GEOLOGY AND SOILS**

- A. **Geotechnical Compliance:** All grading and foundation plans for the development shall be designed by a Civil and Structural Engineer and reviewed and approved by the Director of Public Works/City Engineer, Chief Building Official, and a qualified Geotechnical Engineer prior to issuance of grading and building permits to ensure that all geotechnical recommendations specified in the Geotechnical Engineering Study prepared for the proposed project are properly incorporated and utilized in the project design.

## **HAZARDS AND HAZARDOUS MATERIALS**

- A. **Asbestos and Lead Risk Assessment:** Prior to issuance of a demolition permit for on-site structures, the project applicant shall consult with certified Asbestos and/or Lead Risk Assessors to complete and submit for review to the Building Department an asbestos and lead survey. If asbestos-containing materials or lead-containing materials are not discovered during the survey, further mitigation related to asbestos-containing materials or lead-containing materials shall not be

required. If asbestos-containing materials and/or lead-containing materials are discovered by the survey, the project applicant shall prepare a work plan to demonstrate how the on-site asbestos-containing materials and/or lead-containing materials shall be removed in accordance with current California Occupational Health and Safety (Cal-OSHA) Administration regulations and disposed of in accordance with all CalEPA regulations, prior to the demolition and/or removal of the on-site structures. The plan shall include the requirement that work shall be conducted by a Cal-OSHA registered asbestos and lead abatement contractor in accordance with Title 8 CCR 1529 and Title 8 CCR 1532.1 regarding asbestos and lead training, engineering controls, and certifications. The applicant shall submit the work plan to the City for review and approval. The City has the right to defer the work plan to the Santa Clara County Department of Environmental Health for additional review. Materials containing more than one (1) percent asbestos that is friable are also subject to BAAQMD regulations. Removal of materials containing more than one (1) percent friable asbestos shall be completed in accordance with BAAQMD Section 11-2-303.

## **GENERAL**

A. **Mitigation Fee Act:** 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 this development project for the purpose of defraying all or a portion of the cost of public facilities related to this development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected as part of development agreements, or as a part of the application for the City's Residential Development Control System. The Mitigation Fee Act Fees applying to this project are listed in the schedule of fees to be provided at building permit stage. Notice is also hereby given that the Developer has an opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval or conditional approval of this development project and that the 90-day protest period has begun.

## **ENGINEERING DIVISION**

### **PROJECT SPECIFIC**

A. **Flood:** Zone AE, Elevation 355.0' North American Vertical Datum of 1988 (NAVD88)

1. The project submitted a Final Flood Plain Study prepared by MH Engineering shown with revision date of 6/4/2021. Santa Clara Valley Water District (Valley Water) reviewed the Final Flood Plain Study ("Flood Study") and the project's updated HEC-RAS model. Land Development Engineering accepts Valley Water's conclusion that the project's Flood Study sufficiently demonstrates that there will be no increase in the lateral extent of flooding along West Little Llagas Creek, or any foreseeable impacts to the floodplain due to the proposed

development. The flood elevation of 355.0' NAVD88, upstream of the building line per the Flood Study, will be used as the project's design base flood elevation.

2. Elevate the lowest floor of the new residential building a minimum of one foot above 355.0' NAVD88 (minimum finish floor elevation of 356.0' NAVD88).
3. At building permit stage, submit an Elevation Certificate (FEMA Form 086-0-33) for the proposed structure, based on construction drawings. Consequently, an Elevation Certificate based on finished construction is required prior to building final/occupancy.
4. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities shall be elevated at a minimum elevation of 356.0' NAVD88.

B. **Stormwater Infrastructure/Stormwater Management:** The project is required to comply with the requirements of the California Regional Water Quality Control Board Central Coast Region (Region 3) Resolution No. R3-2013-0032 as documented by the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements ("Stormwater Guidance Manual").

1. At improvement plan/building permit stage, the project shall address the following:
  - a. The Stormwater Control Plan and Operation & Maintenance (SWCP) report shall match the City standard format.
  - b. Provide the infiltration test results as an attachment to the SWCP report.
  - c. Provide confirmation that the drawdown time for the proposed underground storage system will drain within 72 hours and a multiplier of 1.2 was applied to the required retention volume if the drawdown exceeds 48 hours since the system was sized using a routing method. Refer to Section 3a of Attachment D from the Stormwater Management Guidance Manual.
  - d. Provide a detail for the proposed permeable pavement.
  - e. Perforated pipes are proposed along and near the northerly and southerly property lines. Since the pipes will function as underground infiltration systems, provide confirmation from the project's geotechnical engineer that the proximity of the perforated pipes to the property lines are acceptable and that any subsurface lateral movement can be accommodated and will not impact adjacent buildings or neighboring properties.
  - f. The four 12"x12" drop inlets proposed along the southerly property shall have filter bag inserts or other pretreatment structures.
  - g. Include details on the stormwater control facilities including invert elevations, depths of gravel, soil, etc., and the invert elevations of inlet and outlets.

- h. Provide a detail of the outlet structure used for peak flow control and identify the location of the outlet on the Drainage Management Area (DMA) map.
- i. The project's final SWCP shall include the following:
  - i A thorough and explicit discussion on the concern with groundwater separation. Project's civil engineer shall determine whether Technical Infeasibility will be pursued.
  - ii Completed Maintenance Agreement
  - iii Completed Operation and Maintenance Plan
  - iv Contact information for the owner of facilities responsible for conducting Operation and Maintenance Plan

2. Other options for stormwater treatment of the project's offsite improvements shall be determined at improvement plan/building permit stage.

C. **Landscape Median:** The applicant shall install a raised landscape median on Monterey Road, for that portion covering the project frontage per City's General Plan, up to the existing landscape median south of the project site.

1. The proposed landscaping for the new raised median island shall comply with the City's Median Design Guidelines and shall be reviewed in detail at improvement plan stage.

D. **Street Improvements**

1. **Undergrounding:** The project shall underground the following overhead utilities and locate it underneath the sidewalk:
  - a. The existing overhead utilities along the project's Monterey Road frontage; and
  - b. Remainder of the existing overhead utility lines located to the south of the project. The City shall reimburse the developer's cost to underground this segment through the project's Improvement Agreement or a separate reimbursement agreement.
2. At building permit stage, the pavement section design of Monterey Road shall be verified based on actual field conditions (arterial street standard  $TI=8$  and true  $R$  value).
3. Detailed review of the proposed street improvements, including Broadband design, will be performed at the improvement plan/building permit stage.

## **GENERAL**

A. **Public and Private Improvements:** 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. **Improvement Plans:** The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the project 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 grading/building permit issuance. (MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)
  - 1. Improvement plans are to show water lines, sanitary sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- C. **Encroachment Permit:** 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)
- D. **Improvement Agreement:** Enter into an Improvement Agreement with the City of Morgan Hill to cover required improvements. (MHMC 12.02.150; 17.32.010 B; 17.32.160)
- E. **Impact Fees and 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 1st) 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)
  - 1. The developer shall pay all applicable impact fees and other engineering review fees prior to building permit issuance and at building final. The fees shall be based on the Public Works Fee Schedule prepared by Land Development Engineering.

## **STREET IMPROVEMENTS**

- A. **Installation and Dedication of Streets:** 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)
- B. **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)
- C. **Street Trees:** The proposed street trees shall comply with the street tree species

and spacing listed under the applicable zone in the Master Street Tree List of the City's Master Street Tree Plan.

### **SANITARY SEWER SYSTEM**

- A. **Design of Sewer Improvements:** 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. **Sewer Connections:** 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)**

### **STORM DRAIN SYSTEM**

- A. **Storm Drainage Study:** 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. **Storm Drainage Design:** The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Design Review plans. All storm drain improvements shall be constructed to the satisfaction of the City Engineer. **(MHMC 17.32.020 A & B)**
- C. **Storm Drainage Capacity:** 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 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. **Storm Drainage General Requirements:** 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. **NPDES Construction Activity General Permit/SWP<sup>PP</sup> Requirements:** 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 (SWP<sup>PP</sup>) Manual in accordance with the General Permit. The SWP<sup>PP</sup> Manual shall follow the CASQA SWP<sup>PP</sup> template/format at <https://www.casqa.org/store/products/tbid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number to be issued to the construction site after the SWRCB receives and verifies the submitted ONLINE NOI information. The WDID number and approved SWP<sup>PP</sup> Manual shall be provided to Public Works and the Building Department prior to any approval of grading activities (**SWRCB NPDES General Permit CA000002**).

F. **NPDES General Permit/Site SWP<sup>PP</sup> Inspections and Compliance:**

1. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWP<sup>PP</sup> Inspector (QSD or QSP or RCE)**.
2. SWP<sup>PP</sup> Inspections shall occur weekly during the rainy season (September 15<sup>th</sup> thru May 1<sup>st</sup>).
3. SWP<sup>PP</sup> Inspections shall occur bi-weekly during the non-rainy season.
4. 48 hours prior to and following a forecasted rain event, SWP<sup>PP</sup> 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 SWP<sup>PP</sup> Inspector shall certify in writing to the Building and Public Works Department if the site is in compliance or non-compliance with the NPDES General Permit for Stormwater, site SWP<sup>PP</sup> Manual, and Water Pollution

Control Drawings (per the CMH-SWPPP Inspection Check List to be provided by Public Works). 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 addressed 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.
10. BMPs maintenance/inspections shall include tree protection if applicable.

## **WATER SYSTEM**

A. **Domestic Water System:** 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. **Water Master Meter:** All residential units are being served by one master public meter and shall be privately sub-metered as allowed pursuant to Section 13.04.130.C of the Morgan Hill Municipal Code. The owner of a multi-unit residential development that includes habitable dwellings, may, upon compliance with the following, install separate private submeters to each residential unit in lieu of installing separate public meters directly to the municipal water system:

1. The owner shall obtain approval/permit from the Public Works Department for the submeter system.
  - a. Any submeters shall accurately and completely measure all water consumed from the municipal water system.
  - b. The owner shall agree to charge the tenant of each unit a water utility charge strictly based on the consumption by the occupants of the unit.
  - c. Installation, maintenance and monitoring of the submeter system shall be the responsibility of the owner, and in no circumstances shall the City be responsible.
  - d. If any water conservation plan is implemented or imposed by the City, the owner shall be responsible for complying with any reductions required by such plan as measured by consumption on the meter(s) directly connected to the municipal water system.

2. Failure to abide by the above conditions, and/or any other conditions the City may impose, may result in revocation of any permit issued and/or other action as authorized by law, such as at the owners expense install individual public water meters for each unit.
3. Owner/developer shall provide an agreement with the City to cover/outline the requirements of section 13.04.130.C of the Municipal Code to be reviewed and approved by the City Engineer or designee.
4. Records of bookkeeping and private sub-metering usage shall be accurately maintained digitally. Upon request from the City, records shall be produced to the City within a 24-hour period.

#### **OTHER CONDITIONS**

- A. **Easement Dedications:** The owner shall dedicate all necessary utility easements. (MHMC 12.02.080 D; 17.28.010 A)
- B. **Undergrounding new utilities:** 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. (MHMC 17.32.020 E.1)
- C. **Landscaping and Irrigation Systems:** 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 property owner or designated maintenance entity.
- D. **Final Landscape Plans:** Final landscape plans shall be submitted with and included as part of the improvement plans for the project. (MHMC 17.08.090)
- E. **Pre-construction Meeting:** Prior to the approval of any Building Permit for grading activity, the developer shall schedule a pre-construction 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
- F. **As-Built Submittal Standards:** The developer shall submit digital as-builts of the project's Grading Plan and Improvement Plans which adhere to the City's updated GIS/CAD Developer Submittal Standards.

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

- A. **Stormwater 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\\_hydropmod\\_charette\\_index.shtml](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hydropmod_charette_index.shtml)). A copy of the guidance manual can be obtained through the Land Development Engineering webpage. Project shall provide Stormwater Runoff Management Plan, 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** - 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. **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) stormwater 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.

E. **Stormwater Runoff Management Plan (SWRMP)** 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 developer shall 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.

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

- 1. Prior to building final, the property owner(s) shall submit a signed certification (with signature, date & license number/seal) certifying that all post-construction stormwater management/BMP facilities shown on the as-built drawings were inspected by the civil engineer (or by a qualified 3rd party stormwater inspector hired by the permittee/owner) and have been constructed in accordance with the approved plans and specifications.
- 2. 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.

3. Any repairs or restoration/replacement and maintenance shall be in accordance with City-approved plans.
4. 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.

**G. Stormwater BMP operation and Maintenance Agreement (SWBOMA) required** - 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 BMPs. The City standard Stormwater BMP Operation and Maintenance Agreement will be provided by Land Development Engineering at building permit/improvement plan stage.

**H. 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 **certified Qualified Stormwater Practitioner (QSP)**.
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 QSP. 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 Environmental Services.

**I. 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.

J. **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.

## **BUILDING DIVISION**

A. **California Code of Regulations:** Project shall be designed to comply with the 2019 California Codes of Regulations as amended by the Morgan Hill Municipal Code Title 15.

B. **Compliance with Morgan Hill Municipal Code:** Project shall comply with the Morgan Hill Municipal Code (MHMC) including but not limited to:

1. MHMC 15.65 Sustainable Building Regulations.
2. MHMC 18.72.040 C. Electric Vehicle Charging.
3. MHMC 15.40 Building Security
4. MHMC 15.38 Wage Theft Preventions
5. MHMC 18.148 Water Conservation
6. MHMC 15.63 Prohibition of Natural Gas Infrastructure in New Buildings  
(Applies to all Building Permit Applications Received on or after March 1, 2020)

C. **Acoustical Analysis:** An acoustical analysis report shall be submitted with the building permit documents showing interior and exterior noise mitigations for compliance to the MHMC and California Building Code.

D. **Demolition Permit:** A separate building permit shall be required for the demolition of existing structures.

## **FIRE DIVISION**

A. **Proposal limited to:** Review of this Development proposal is limited to acceptability of site access as they pertain to fire department operations and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.

B. **Timing of Required Water Supply Installations:** Prior to the commencement of combustible construction, the required Fire Hydrant and Water Supply installations shall be in place, inspected, tested, and accepted by the Fire Department and the City of Morgan Hill, unless otherwise approved in writing by the Fire Marshal. Bulk construction materials may not be delivered to the construction site until installations are completed as stated above. Clearance for

building permits may be held until installations are completed. **(CFC Chapter 14 as amended by MHMC)**

- C. **Fire Lane Marking Required:** Provide marking for all roadways within the project. Markings shall be per fire department specifications. Installations shall also conform to Local Government Standards and the City of Morgan Hill Standard Details and Specifications 11-F. **(CFC Section 503)**
- D. **Automatic Fire Sprinkler System Required:** Buildings requiring automatic fire sprinkler system shall be equipped throughout with an approved automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA) Standard #13. **(CFC Chapter 9 as amended by MHMC 15.44.140)**

#### **POLICE DEPARTMENT**

- A. Safety and Security: 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.

#### **ENVIRONMENTAL SERVICES**

- A. A Soils Management Report shall be prepared prior to submitting a building permit application and the results of the report are to be used to finalize the irrigation design and soil amendment plan.

#### **HOUSING DIVISION**

- A. The project applicant shall sign and record a City of Morgan Hill Density Bonus Affordable Housing Agreement prior to Building Permit issuance.

# Resolution 21-17

Final Audit Report

2021-11-24

Created:	2021-11-24
By:	Jenna Luna (jenna.luna@morganhill.ca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAArXX0G_ZS3jKIGF4BC93w3NFMzUdxNT0A

## "Resolution 21-17" History

-  Document created by Jenna Luna (jenna.luna@morganhill.ca.gov)  
2021-11-24 - 4:38:55 PM GMT- IP address: 68.189.124.146
-  Document emailed to Malisha Kumar (malisha.kumar@morganhill.ca.gov) for signature  
2021-11-24 - 4:39:54 PM GMT
-  Email viewed by Malisha Kumar (malisha.kumar@morganhill.ca.gov)  
2021-11-24 - 5:40:55 PM GMT- IP address: 172.225.87.22
-  Document e-signed by Malisha Kumar (malisha.kumar@morganhill.ca.gov)  
Signature Date: 2021-11-24 - 9:19:52 PM GMT - Time Source: server- IP address: 71.95.130.164
-  Agreement completed.  
2021-11-24 - 9:19:52 PM GMT



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