

RESOLUTION NO. 23-04

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL RECOMMENDING THAT
THE CITY COUNCIL CERTIFY THE FINAL
ENVIRONMENTAL IMPACT REPORT FOR THE HALF-
DIVIDEND (CROSSWINDS) PROJECT AS CONSISTENT
WITH THE REQUIREMENTS OF THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT AND ADOPT A
STATEMENT OF OVERRIDING CONSIDERATIONS
REGARDING ENVIRONMENTAL IMPACTS AND A
RELATED MITIGATION MONITORING AND REPORTING
PROGRAM**

WHEREAS, an Environmental Impact Report (EIR) (SCH Number 2021010358) was prepared for the Half-Dividend (Crosswinds) Project in accordance with the California Environmental Quality Act (CEQA). A Notice of Preparation (NOP) was circulated between January 29, 2021 and March 17, 2022, to receive comments regarding the scope and content of the EIR. The Draft EIR was circulated between November 4, 2022 and January 3, 2023; and

WHEREAS, the City of Morgan Hill received comments on the Draft EIR by four individuals / organizations. Responses to those comments and minor changes to the Draft EIR were included in a Final EIR document in accordance with the requirements of CEQA; and

WHEREAS, the information contained in the Final EIR, consisting of the Draft EIR document in combination with the Final EIR document, was reviewed and considered by the Planning Commission at a duly-noticed Planning Commission public hearing held on May 23, 2023; and the Planning Commission took action to recommend to the City Council that the Final EIR be certified as being found complete, correct, and in substantial compliance with the requirements of the California Environmental Quality Act; and

WHEREAS, the Environmental Impact Report concluded that implementation of the Project could result in two significant effects on the environment and identified mitigation measures that would reduce some but not all of those significant effects to a less-than significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an Environmental Impact Report that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level and/or adopt a Findings of Fact and Statement of Overriding Considerations; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of Morgan Hill as lead agency for the Project (the "Mitigation Monitoring and Reporting Program"); and

WHEREAS, the City of Morgan Hill is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the Environmental Impact Report and the related Findings of Fact and Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program for the Project are, by this reference, incorporated into this Resolution as if fully set forth herein; and

WHEREAS, the Environmental Impact Report, incorporating any Addenda, and related Findings of Fact and Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program for the Project are on file in the Development Services Department located at 17575 Peak Avenue, Morgan Hill, California, 95037, and are available for inspection by any interested person at that location.

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

SECTION 1: FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE HALF-DIVIDEND (CROSSWINDS) PROJECT: The Planning Commission hereby recommends that the City Council find, determine, and declare the findings and facts and statement of overriding considerations as set forth in the attached Exhibit "A" by this reference incorporated herein.

SECTION 2: CERTIFICATION OF FINAL EIR: The Planning Commission recommends that the City Council hereby certify that the Final EIR has been completed in compliance with CEQA.

**PASSED AND ADOPTED THIS 23rd DAY OF MAY 2023, AT A REGULAR MEETING
OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: **COMMISSIONERS:** **MUELLER, TANDA, HABIB, DOWNEY,
LAKE, WILSON**

NOES: **COMMISSIONERS:** **NONE**

ABSTAIN: **COMMISSIONERS:** **NONE**

ABSENT: **COMMISSIONERS:** **KUMAR**

ATTEST:

Jenna Luna
JENNA LUNA, Deputy City Clerk

APPROVED:

Joseph Mueller
Joseph Mueller (May 31, 2023 11:06 PDT)
JOSEPH MUELLER, Chair

EXHIBIT "A"

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE CROSSWINDS RESIDENTIAL PROJECT (State Clearinghouse No. 2021010358)

The following Findings, the mitigation measures specified herein, and the Mitigation Monitoring and Reporting Program attached hereto are hereby adopted by the Morgan Hill City Council in accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21081, 21081.5 and 21081.6, and the CEQA Guidelines, Title 14, California Code of Regulations, Sections 15091 and 15092 for the Crosswinds Residential (project).

Section 15091 of the CEQA Guidelines states that:

- a. *No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:*
 - (1) *Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.*
 - (2) *Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*
 - (3) *Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.*

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that will otherwise occur with implementation of the project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the project lies with another agency.

For those significant effects that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social,

technological, or other benefits of the project outweigh the significant effects on the environment. The CEQA Guidelines state in section 15093 that:

"If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.'"

A. ENVIRONMENTAL REVIEW PROCESS

The Environmental Impact Report (EIR) prepared by the City of Morgan Hill (City) for the Crosswinds Residential Project (project) consists of the Draft EIR (Draft EIR) and the Final EIR / Response to Comments on the Draft EIR.

On January 29, 2021, the City of Morgan Hill circulated a Notice of Preparation (NOP) for a 45-day comment period to request input on the types of impacts that could result from the proposed project. The Draft EIR was made available for public review for a 60-day comment period that began on November 4, 2022 and ended on January 3, 2023. The Notice of Availability of a Draft EIR was posted with the Santa Clara County Clerk, sent to the State Clearinghouse, published on the City's website, and mailed to responsible agencies. The City of Morgan Hill received a total of four written comment letters during the public comment period.

The City released the Final EIR for public review on May 3, 2023. The Final EIR consists of copies of all comments received on the Draft EIR, a list of commenters, all responses to comments, and Draft EIR text revisions. The Final EIR, Draft EIR, and Mitigation Monitoring and Reporting Program (MMRP) together comprise the EIR for the project. The analysis and conclusions contained in the EIR reflect the independent judgment of the City.

B. PROJECT DESCRIPTION

Section 3 of the Draft EIR includes a detailed description of the project. Other than minor clarifications, no revisions to the project description were required.

The approximately 33-acre project site is located at the intersection of Half Road and Mission View Drive in the City of Morgan Hill. The project is located on four parcels. The Assessor's Parcel Numbers (APNs) are 728-30-001, 728-30-002, 728-30-003, and 728-30-004. The project site is mostly undeveloped and consists of grassland, fallowed agricultural fields, and boxed trees.

The project proposes to construct a total of 269 residential units, comprised of 56 single-family detached, 64 duets, and 149 condominium units. There would be a total of 40 below-market-rate (BMR) units. Each unit would include a two-car garage on the ground floor. The single-family detached residences would be constructed on the eastern and southern perimeters of the project site, along Mission View Drive and Half

Road. The single-family residences would be two-stories and reach a maximum height of 30 feet. The project also proposes to construct an off-site sanitary sewer line that would extend from Half Road to Condit Road, to the existing sanitary sewer line in East Main Avenue.

The EIR evaluates two project options related to the management of stormwater. Under Option 1, stormwater runoff would be directed to underground retention facilities designed for a 25-year, 24-hour storm event and under Option 2, 100 percent of stormwater from the site would be directed to underground retention facilities designed for a 100-year, 24-hour storm event (as described in further detail in Section 3.2.4, Stormwater Drainage Improvements). The two project options would have the same site design described below including the proposed number of residences, building elevations, and site layout (described above). Although Options 1 and 2 were evaluated, the City of Morgan Hill City Council approves Option 1.

The project objectives are to:

- Provide market-rate and below-market rate housing, as envisioned in the City of Morgan Hill General Plan.
- Create a visually appealing pedestrian corridor along the Mission View Drive and Half Road frontages.
- Implement improvements to provide private vehicular and pedestrian circulation.
- Increase passive and active open space throughout the project site.

The proposed project would require the following approvals:

- Certification of the EIR: Certify the Crosswinds Residential Project EIR and make environmental findings pursuant to CEQA.
- Vesting Tentative Map and Final Map
- Design Permit
- Issuance of Demolition, Grading, Building, and Occupancy Permits
- Encroachment Permit from Valley Water (Sanitary Sewer Modifications)

C. SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS AND DISPOSITION OF RELATED MITIGATION MEASURES

The following findings are hereby made by the City of Morgan Hill City Council for the significant environmental effects identified in the EIR related to agriculture and forestry resources (impacts related to conversion of Important Farmland) and transportation (impacts related to vehicle miles traveled [VMT]). The Final EIR identified the following impacts associated with the project that would be significant and unavoidable:

1. **Agricultural and Forestry Resources Impact AG-1:** The project would convert 16

acres of Prime Farmland to non-agricultural use. Mitigation measures MM AG-1.1 and MM AG-1.2 would reduce the project's impacts associated with conversion of Prime Farmland, but not to a less than significant level. The impact would be significant and unavoidable.

Mitigation Measure MM AG-1.1: A minimum of one acre of agricultural land (1:1 mitigation ratio) shall be preserved for each acre of agricultural land changed to a non-agricultural use. The required acreage of area to be protected through an agricultural conservation easement or agricultural preservation in-lieu fee will depend on the measurement of affected area. The 16 acres of Prime Farmland shall be used for calculating the required mitigation.

Mitigation Measure MM AG-1.2: Conversion of agricultural land shall require offsetting acquisition and/or dedication of agricultural conservation easements over approved agricultural mitigation land, or payment to the City of the agricultural preservation in-lieu fee, to support agricultural preservation activities. Developer acquisition/dedication of easements shall require the project to pay an agricultural lands preservation program stewardship fee to cover administrative costs and ongoing management and monitoring of the easements. Agricultural mitigation fees shall be required prior to the acceptance of a final parcel or subdivision map, or prior to issuance of building or grading permits. Easement dedication is required prior to issuance of building permits.

Finding: Based on the Farmland Mapping and Monitoring Program of the California Resources Agency Mapping System, the project site consists of approximately 16 acres of Prime Farmland and 17 acres of Grazing Land. The project proposes to develop the site with residential uses. Conversion of the Prime Farmland would constitute a significant impact to agricultural resources. Consistent with the City's Agricultural Preservation Program and Agricultural Mitigation Ordinance, mitigation measures MM AG-1.1 and MM AG-1.2 require a minimum of one acre of agricultural land (1:1 mitigation ratio) to be preserved for each acre of agricultural land changed to a non-agricultural use and acquisition and/or dedication of agricultural conservation easements over approved agricultural mitigation land, or payment to the City of the agricultural preservation in-lieu fee. The project applicant will implement mitigation measures MM AG-1.1 and MM AG-1.2, however, the impact would not be reduced to a less than significant level because, while the project would preserve existing agricultural lands, it would not create any new agricultural lands to offset the lost 16 acres of prime farmland. There are no other feasible mitigation measures which could be implemented to reduce the loss of agricultural lands to a less than significant level, as CEQA case law affirms the principle that the loss of prime farmland is irreversible, and protection of other existing farmland does not fully offset the lost farmland, but rather prevents further loss. Therefore, the impact would remain significant and unavoidable.

Impacts related to agricultural and forestry resources have been mitigated to the

extent feasible. The City of Morgan Hill finds that although this impact would be significant and unavoidable, the impact is acceptable when weighed against the overriding social, economic, and other considerations set forth in Section I, *Statement of Overriding Considerations*.

For a detailed description of impacts and mitigation measures, see the appropriate text in the Draft and Final EIR.

2. **Transportation Impact TRN-2 and Impact TRN-C:** The project is estimated to generate 27.41 VMT per capita, which would exceed the California Office of Planning and Research's (OPR's) impact threshold of 20.94 VMT per capita. Mitigation measure MM TRN-2.1 would not reduce the project VMT to below OPR's impact threshold, therefore, the VMT impact would not be reduced to a less than significant level. The impact would be significant and unavoidable. Since the project generated VMT per capita is above the citywide threshold, the project would result in a considerable contribution to a significant cumulative citywide VMT impact.

Mitigation Measure TRN-2.1: Prior to project occupancy, the project applicant shall develop and implement a Transportation Demand Management (TDM) plan which targets achieving a reduction in residential vehicle trips to and from the site. The TDM plan shall be prepared by a qualified traffic consultant and in coordination with the City of Morgan Hill Development Services Director or Designee. The TDM plan shall quantify the reduction in VMT. The TDM shall require the project applicant to make a financial contribution to the City's on-site demand rideshare service (MoGo), as a one-time or annual financial contribution based on City approval, or during project operations, the developer shall provide fully (100 percent) subsidized annual VTA transit passes for all project homeowners (a maximum of one transit subsidy per residential unit, which would result in up to 269 transit passes per year). This subsidized transit program shall be approved by the City of Morgan Hill's Public Services Director or Director's designee prior to issuance of occupancy. The HOA shall submit a receipt and documentation to the City showing that the transit passes have been purchased annually.

Finding: The project would result in VMT per capita of 27.41, while citywide VMT per capita is 24.64, and the OPR threshold relied upon in the EIR was 20.94 VMT per capita. Using OPR's impact thresholds, the project would need to implement VMT reduction measures to achieve a 24 percent reduction (27.41 to 20.94) in its VMT per capita for the proposed residential uses to reduce its impact to less than significant level. Mitigation measure TRN-2.1 requires the project applicant to make a financial contribution to the City's on-site demand rideshare service, as a one-time or annual financial contribution based on City approval, or during project operations, requires the developer to provide fully (100 percent) subsidized annual VTA transit passes for all project homeowners. The provision of fully (100 percent) subsidized annual VTA transit passes for all project homeowners under mitigation MM TRN-2.1 could reduce the project's VMT per resident from 27.41 to 27.37. VTA's VMT

tool does not include a feature which calculates VMT reduction from the project applicant's contribution to the City's on-site demand rideshare service. The project design features would encourage the use of pedestrian and bicycle facilities, but not to a degree which would have any measurable effect on project VMT. Therefore, the project VMT would continue to be above the 20.94 VMT per capita threshold. There are no other feasible mitigation measures which could be implemented to reduce the transportation impacts. Measures such as carshare programs and transit service expansion programs would not be feasible given the costs to maintain such programs. As mentioned above, even with the implementation of these measures, the project VMT would be above the VMT per capita threshold. Therefore, the impact would remain significant and unavoidable.

Impacts related to transportation have been mitigated to the extent feasible. The City of Morgan Hill finds that although this impact would be significant and unavoidable, the impact is acceptable when weighed against the overriding social, economic, and other considerations set forth in Section I, *Statement of Overriding Considerations*, below.

D. SIGNIFICANT IMPACTS IDENTIFIED IN THE EIR THAT ARE REDUCED TO A LEVEL OF "LESS THAN SIGNIFICANT" BY THE MITIGATION MEASURES INCORPORATED INTO THE PROJECT

The following findings are hereby made by the City of Morgan Hill City Council for the significant environmental effects identified in the EIR that would be reduced to a less than significant level through incorporation of mitigation measures. The City finds for each of the significant or potentially significant impacts identified in this section that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant effects as identified in the EIR and, thus, that adoption of the mitigation measures set forth below will reduce these significant or potentially significant effects to less than significant levels. Adoption of the mitigation measures will effectively make the mitigation measures part of the project. In addition, compliance with City and other applicable regulations will further reduce project impacts. Therefore, the City finds that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant effects as identified in the EIR.

The Final EIR identified several impacts associated with the project that would be reduced to a level of less than significant with the implementation of mitigation measures identified in the Final EIR:

- 1. Biological Resources Impact BIO-1:** The project could have a substantial adverse effect on nesting birds. With the implementation of mitigation measures MM BIO-1.1 and MM BIO-1.2, this impact would be reduced to less than significant.

MM BIO-1.1: Construction shall be scheduled to avoid the nesting season. If construction can be scheduled to occur between September 1st and January 31st (inclusive) to avoid the raptor nesting season, no impacts will be expected. If construction will take place between February 1st and August 31st, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. Performance of the required surveys for construction occurring between February 1st and August 31st will ensure that impacts to nesting raptors are reduced to less than significant. Surveys will be completed within 30 days of the on-set of tree removal, site clearing or construction activities. During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., trees, shrubs, buildings) onsite trees as well as all trees within 250 feet of the site for nests. The pre-construction survey shall be submitted to the City's Development Services Director or the Director's designee for review prior to tree removals or issuance of a grading permit.

MM BIO-1.2: If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist will determine the extent of a disturbance-free buffer zone to be established around the nest (typically 250 feet for raptors and 50-100 feet for other species) that will remain off limits to construction until the nesting season is over, to ensure that no nests of species protected by the Migratory Bird Treaty Act and California Fish and Wildlife Code will be disturbed during project implementation. A report indicating the result of the survey and any designated buffer zones shall be submitted to the satisfaction of the City's Development Services Director or Director's designee prior to removal of trees and issuance of a grading permit.

Finding: The proposed project would remove all existing trees on the 33-acre site. The mature trees on-site have the potential to provide nesting or foraging habitat for nesting raptors and migratory birds protected under state and federal regulations. At the time of development, raptors and migratory birds could be nesting in the trees and vegetation on and adjacent to the project site. Project construction and tree removal during the avian breeding season could result in direct or indirect impacts to eggs and nestlings. The project would implement mitigation measures MM BIO-1.1 and MM BIO-1.2 which require pre-construction surveys for nesting birds if construction takes place between February 1st and August 31st and a buffer zone around any active nests. This impact would be less than significant with adherence to mitigation measures MM BIO-1.1 and MM BIO-1.2.

2. **Biological Resources Impact BIO-5:** The project could conflict with the City's tree ordinance without the implementation of mitigation. With the implementation of mitigation measure MM BIO-5.1, this impact would be reduced to less than significant.

MM BIO-5.1: The project applicant shall comply with local ordinances and submit permit applications for removal, trimming, damage, or relocation of all trees covered by the City ordinance. Any trees to be removed shall require replacement at a two-to-one ratio on a comparable ratio of size. The replacement trees shall be planted on site to the extent feasible and the project proponent shall comply with all other replacement requirements imposed by the City. Prior to tree removal, the project applicant shall apply for a tree removal permit, which will be reviewed by the City's Development Services Director or Director's designee.

Finding: An ordinance-sized/significant tree is considered to be a tree with a single stem or trunk of a circumference of 40 inches (or diameter of 12.7 inches) or more for nonindigenous species and a circumference of 18 inches (or diameter of 5.7 inches) or more for indigenous species measured at four and one-half feet vertically above the ground. The project site contains four ordinance-sized trees as defined by the City of Morgan Hill Municipal Code Section 12.32.030. This includes one Monterey pine, one Peruvian pepper tree, and two Ponderosa pines. Mitigation measure MM BIO-5.1 requires any trees proposed for removal to be replaced at a two-to-one ratio on a comparable ratio of size and the project applicant to apply for a tree removal permit, which will be reviewed by the City's Development Services Director or Director's designee. Implementation of mitigation measure MM BIO-5 would ensure that potential impacts to trees would be less than significant.

3. **Cultural Resources Impact CUL-2:** The project could result in a substantial adverse change in the significance of an archaeological resource without mitigation. With the implementation of mitigation measures MM CUL-2.1 and MM CUL-2.2, this impact would be reduced to less than significant.

MM CUL-2.1: A moderate potential exists for unrecorded historic period archaeological resources to be within the project area. The developer shall enter into written contracts with an archaeologist and the Tamien Nation Tribe, and pay all fees associated with the activities required by this Mitigation Measure. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply:

(a) Prior to the start of grading or earthmoving activity (includes demolition and moving of heavy equipment on site) on the "first day of construction," the archaeologist and Tribal Monitor shall hold a pre-construction meeting for the purposes of "cultural sensitivity training" with the general contractor or subcontractors.

(b) A Tamien Nation Tribal Monitor shall be present on-site to monitor all ground-disturbing activities and an archaeologist shall be on-call. 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:

1. 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.
2. 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.
3. 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.
4. 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 or Director's designee. The action plan shall be in conformance with California Public Resources Code 21083.2. An archaeologist shall be on-call during 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.

(c) 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,

1. 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.
2. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
3. Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.

(d) 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.

(e) 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).

(f) The discovery locale shall be secured (e.g., 24-hour surveillance) as directed by the City or County Coroner if considered prudent to avoid further disturbances.

(g) 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)

(h) 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.

(i) 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.)

(j) Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.

(k) Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Development Services Director or Director's designee, 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.

(l) 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.

MM CUL-2.2: The project applicant shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources including prehistoric Native American burials. Any archaeological site information supplied to the Contractor Foreman or authorized representative shall be considered confidential. Information on the project plans shall be verified by the Development Services Director or Director's designee prior to issuance of a grading permit or any building permit.

Finding: Based on the City's archaeological sensitivity map and a records search in the California Historical Resource Information System (CHRIS) database, reviewed archival literature, and completed a field inspection (in May 2019) to determine the potential presence of historic-era archaeological resources, the project site is considered to have low to moderate sensitivity for prehistoric and historic archaeological resources. While the project site is not known to contain an archaeological site or buried deposits, construction operations could result in the inadvertent exposure of buried prehistoric or historic archaeological materials that could be eligible for inclusion on the California Register and/or meet the definition of a unique archaeological resource as defined in Section 21083.2 of the Public Resources Code. No surface indications of prehistoric or significant historic cultural materials or culturally modified soils were observed during the survey completed for the proposed project. Mitigation measure MM CUL-2.1 and MM CUL-2.2 require a tribal monitor to be present on-site to monitor all ground-disturbing activities, and where historical or archaeological artifacts are found, work in areas where remains or artifacts are found to be restricted. Implementation of mitigation measures MM CUL-2.1 and MM CUL-2.2 would reduce this impact to less than significant.

4. **Cultural Resources Impact CUL-3:** The project could result in a significant impact to human remains without mitigation. With the implementation of mitigation measure

MM CUL-2.1 and MM CUL-2.2 described above, this impact would be reduced to less than significant.

MM CUL-2.1 and MM CUL-2.2: See mitigation measures MM-2.1 and MM CUL-2.2 listed above.

Finding: As stated above, no surface indications of prehistoric or significant historic cultural resources or culturally modified soils were observed during the survey completed for the proposed project. Although it is not expected, human remains could be discovered during construction of the project. Implementation of mitigation measures MM CUL-2.1 and MM CUL-2.2 would reduce the impact to human remains to less than significant.

5. **Greenhouse Gas Emissions Impact GHG-1:** The project would generate GHG emissions that may have a significant impact on the environment. With the implementation of mitigation measures MM GHG-1.1 through MM GHG-1.3, this impact would be reduced to less than significant.

MM GHG-1.1: The project applicant shall develop a GHG reduction plan to reduce GHG emissions in the build-out year by 206 MT/year prior to issuance of a grading permit and to the satisfaction of the City's Development Services Director or Director's designee. These reductions shall be kept in place by the project until the City adopts a qualified GHG reduction plan (consistent with CEQA Guidelines Section 15183.5) that contains goals and associated strategy to decrease emissions in a manner consistent with meeting the State's interim 2030 GHG emissions reduction target of 40 percent below 1990 levels.

MM GHG-1.2: A combination of the GHG reduction elements listed below would reduce project GHG impacts. The project applicant shall implement some or all of the following elements to further reduce GHG emission from operation of the project and the service population efficiency metric such that the metric would be below the significance threshold. The GHG reduction elements to be included within the project shall be verified prior to the issuance of a building permit and shall be to the satisfaction of the City's Development Services Director or Director's designee.

- Prior to issuance of any building permits, the project applicant shall submit a Transportation Demand Management (TDM) Plan, which would include measures to reduce vehicle miles traveled (VMT) and GHG emissions, to the City's Development Services Director or Director's designee.
- The TDM Plan shall be implemented by the Homeowners Association (HOA) once the proposed residences are occupied.
- The project applicant shall install solar power systems or other renewable electric generating systems that provide electricity to power on-site equipment and possibly provide excess electric power;
- The project applicant shall provide infrastructure for electric vehicle

- charging for residential units (i.e., provide 220 VAC power); and,
- The project applicant shall increase water conservation above state average conditions for residential uses by installing low flow water utilities and irrigation.

MM GHG-1.3: The project applicant shall purchase verifiable carbon emission offsets through a verified registry for remaining amount of GHG reduction required, after exhausting on-site reduction options prior to issuance of a building permit. Offsets shall be determined by calculating the total estimated number of GHG emissions the project would create over a 30-year period, and purchasing verifiable offsets based on the calculated number of GHG emissions.

Finding: The existing greenhouse gas emissions (GHG) are primarily generated by vehicle travel to and from the site, emissions related to irrigation, and operation of agricultural equipment. There would also be long-term operational emissions associated with vehicular traffic within the project vicinity, energy, and water usage, and solid waste disposal. A Substantial Progress efficiency threshold of 2.8 MT CO₂e/service population/year threshold, which is a 40 percent reduction from the BAAQMD 2020 service population emissions target of 4.6 MT CO₂e /service population/year, is utilized in this EIR. An adjusted bright-line threshold of 660 MTCO₂e/year, which is 40 percent below BAAQMD 2020 bright-line threshold of 1,100 MT CO₂e, is also used. The efficiency and adjusted bright-line thresholds were calculated based on the GHG reduction goals of SB 32 and EO B-30-15 for 2030.

To be considered an exceedance, a project must exceed both the GHG significance threshold in metric tons per year and the service population significance threshold in the future year of 2030. The project would exceed the annual emissions bright-line threshold of 660 MT CO₂e/year and the service population threshold of 2.8 MT of CO₂e/year/service population in 2030. Therefore, the project would exceed the brightline and service population GHG emissions target for 2030, which would result in a significant GHG impact. Mitigation measures GHG-1.1 through MM GHG-1.3 require the project applicant to develop a GHG reduction plan to reduce to reduce GHG emissions in the build-out year by 206 MT/year and a Transportation Demand Management Plan; the project applicant will also be required to purchase verifiable carbon emission offsets for the remaining amount of GHG reduction required, after exhausting on-site reduction options prior to issuance of a building permit. Therefore, implementation of Mitigation measures GHG-1.1 through MM GHG-1.3 would reduce GHG impacts to less than significant.

6. **Hazards and Hazardous Materials Impact HAZ-2:** The project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. With the implementation of mitigation measures MM HAZ-2.1 through MM HAZ-2.7, this impact would be reduced to less than significant.

MM HAZ-2.1: Since lead-impacted soils are determined to be present in concentrations above established regulatory environmental screening levels, the project applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Voluntary Cleanup Program (VCP), or equivalent, to formalize regulatory oversight of the mitigation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant responsible for the contaminated area of the site shall remove contaminated soil to levels acceptable to the SCCDEH (or equivalent oversight agency) for residential exposure prior to issuance of any grading permits.

MM HAZ-2.2: A Removal Action Plan, Soil Mitigation Plan or other similarly titled report describing the remediation shall be prepared and implemented to document the removal and /or capping of contaminated soil. Prior to issuance of any grading permits, a copy of any reports prepared shall be submitted to the Development Services Director or Director's designee. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH (or equivalent oversight agency).

MM HAZ-2.3: The project applicant shall prepare a Site Management Plan (SMP) prior to issuance of any grading permits to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of organochlorine pesticides and pesticide-based metals. The SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions:

- Procedures for transporting and disposing the waste material generated during removal activities, if such transport and disposal is necessary;
- Procedures for stockpiling soil on-site if such stockpiling is necessary;
- Provisions for collecting soil samples to prior to grading activities;
- Provisions for confirmation soil sampling as appropriate to obtain a "No Further Action" letter (or equivalent) from the state and/or local agency assuming oversight for the site;
- Procedures to ensure that fill and cap materials are verified as clean truck routes;
- Staging and loading procedures and record keeping requirement.

The SMP shall reference the Storm Water Pollution Prevention Plan (SWPPP) required for the project in accordance with the Construction General Permit Order issued by the California State Water Resources Control Board. The SMP shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent regulatory agency, for review and approval. Copies of the approved SMP shall be provided to the City's Development Services Department prior to issuance of any grading permits.

MM HAZ-2.4: All contractors and subcontractors at the project site shall develop a health and safety plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. The HSP shall be implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but not limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers;
- Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;
- Procedures for the safe storage, stockpiling, and disposal of contaminated soils;
- Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities;
- Emergency procedures and responsible personnel.

The HSP shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent regulatory agency, for review and approval. Copies of the approved HSP shall be provided to the City's Development Services Department prior to issuance of any grading permits.

MM HAZ-2.5: Prior to issuance of any grading permits, the project applicant shall excavate lead-impacted soils identified at sample location SS-R-17B (near the single-family residence and barn structure) to a depth of at least 2.5 below the ground. The soil shall be properly disposed of in accordance with state and SCCDEH and California Code of Regulations, Title 8 waste disposal requirements. The SCCDEH (or equivalent oversight agency) may also approve leaving in-place some of the contaminated soil if the contaminated soil will be buried under hardscape and/or several feet of clean soil and not at risk of being encountered by future site users or nearby residents.

MM HAZ-2.6: 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. The following measures shall be included in the work plan:

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
- Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
- Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

MM HAZ-2.7: Prior to issuance of a grading permit, the project applicant shall research well records from Valley Water and attempt to locate abandoned wells at the site. The project applicant or contractor shall contact Valley Water's Wells Hotline immediately to assist in the identification of abandoned/unregistered wells or structures and help determine the appropriate means of addressing them. If the wells are identified, or subsequently encountered during earthwork activities, the wells shall be properly destroyed in accordance with Valley Water Ordinance 90-1.

If septic systems are encountered during earthwork activities, those systems shall be abandoned in accordance with SCCDEH requirements.

Finding: The project site was used for agricultural purposes until 2019. Sampling at the site was completed to determine if shallow soils had been impacted by organochlorine pesticides, arsenic, and lead in September 2018. The results showed organochlorine pesticides such as chlordane, p,p-DDD, p,p-DDE, and p,p-DDT, were detected below the regulatory environmental screening levels (ESLs). Arsenic was detected at concentrations below background levels. Therefore, the presence of organochlorine pesticides and arsenic on-site is not a recognized environmental condition. Lead was detected in samples near the on-site residence and barn structure, therefore, in October 2018, additional sampling for lead was completed around the residence and ancillary barn structure. Since the lead-impacted soil remains on-site, this is considered a recognized environmental condition. Impacted soils could be released into the environment during project construction and could expose construction workers and nearby land uses, resulting in a significant impact.

In addition, the on-site residence and associated barn structure were constructed prior to 1978 and could contain lead-based paint and asbestos-containing materials. Demolition of the existing buildings on site could expose construction workers and nearby residents to asbestos or lead. One water well and septic system were located on-site during a site reconnaissance in 2018. The water supply well and septic systems on the site will be abandoned. Improper abandonment of the well and septic system could lead to a recognized environmental condition by potentially exposing construction workers, neighboring uses, and the environment to hazardous materials.

Mitigation measures MM HAZ-2.1 through MM HAZ-2.5 require the project applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Voluntary Cleanup Program (VCP), or equivalent, to formalize regulatory oversight of the mitigation of contaminated soil, complete a Removal Action Plan, Soil Mitigation Plan, or other similarly titled report, complete a Site Management Plan and Health and Safety Plan, and excavate lead-impacted soils near the on-site residence and barn structure. Mitigation measure MM HAZ-2.6 requires removal asbestos-containing materials and/or lead-containing materials to be in accordance with current California Occupational Health and Safety (Cal-OSHA) Administration regulations and disposal of these materials in accordance with all CalEPA regulations. Mitigation measure HAZ-2.7 requires wells on-site to be abandoned in accordance with Valley Water and the Santa Clara County Department of Environmental Health requirements. Implementation of MM HAZ-2.1 through MM HAZ-2.7 would reduce the project's hazardous materials impacts to less than significant.

E. MITIGATION MONITORING AND REPORTING PROGRAM

When making findings, the lead agency must adopt a reporting or monitoring program for the mitigation measures it has adopted or made a condition of project approval to mitigate or avoid significant effects on the environment. The City hereby adopts the MMRP for the project, included as Attachment A to these findings. The mitigation measures identified in the Final EIR and adopted and incorporated into the project will be monitored pursuant to this program.

F. ALTERNATIVES

Pursuant to CEQA Guidelines Section 15126.6, the EIR examined a range of reasonable alternatives to the proposed project that would attain most of the basic project objectives but would avoid or substantially lessen the significant adverse impacts. The City has reviewed the impacts associated with each alternative as compared with the proposed project, and has also considered each alternative's feasibility, considering a range of economic, environmental, social, and legal factors. Overall, the City concludes that the No Project Alternative would be the environmentally superior alternative. However, pursuant to CEQA Guidelines Section 15126.6(e)(2), if the No Project Alternative/No Development Alternative is determined to be environmentally superior, the EIR shall also identify an environmentally superior alternative among the other alternatives. The alternatives considered by the City are summarized as follows.

No Project Alternative/No Development Alternative: Under the No Project Alternative, existing site conditions would be maintained and returned to active agricultural uses, and thereby avoid all of the project's environmental impacts, including the significant unavoidable impacts related to agriculture (conversion of Prime Farmland) and residential VMT. Project impacts that would be less than significant with mitigation measures, including biological resources, cultural resources, greenhouse gas emissions, and hazardous materials impacts, would also be avoided under the No Project Alternative. The No Project Alternative is an environmentally superior alternative to the proposed project. Because the No Project Alternative would not result in any new development on the site, this alternative would avoid all environmental impacts of the project. This alternative would not, however, meet any of the applicant's project objectives and it would not implement the site's General Plan land use designation, which is Residential Attached Low (six to 16 du/ac). Therefore, this alternative is rejected.

No Project – Existing General Plan/Zoning Development Alternative: The General Plan EIR assumes that the project site will be developed in conformance with the existing General Plan designation of Residential Attached Low (six to 16 du/ac), with approximately 345 residential units, based on the site acreage. The project proposes to construct a total of 269 residential units (149 condominiums, 64 duet units, and 56 single-family attached units) consistent with the site's existing General Plan Land Use Designation and zoning district of Residential Attached Low Density. When compared to the proposed project, the No Project/Existing Plan Alternative would potentially result

in more residential development on the site, and result in 718 more daily trips, 56 more AM peak hour trips, and 76 more PM peak hour trips. Given the increase vehicle traffic, the No Project/Existing Plan alternative would slightly increase roadway traffic noise. This alternative would also increase the number of residents by approximately 236 compared to the proposed project. As a result, this alternative has greater impacts on water, sanitary sewer, and solid waste facilities. The No Project/Existing General Plan/Zoning Alternative would result in the same significant and unavoidable VMT as the proposed project given VMT impacts are assessed using a per capita threshold. The No Project - Existing General Plan/Zoning Alternative could achieve all of the project objectives including providing market-rate and below-market rate housing, implementing improvements to provide private vehicular and pedestrian circulation, and increase passive and active open space throughout the project site. However, this alternative would not be the environmentally superior alternative given it would increase the severity of most operational impacts and would avoid none of the project's significant impacts. Therefore, this alternative is rejected.

Reduced Footprint: Agricultural Preservation Alternative: The purpose of the Reduced Footprint Agricultural Preservation alternative is to reduce the identified impacts to agricultural resources. The site consists of approximately 16 acres of Prime Farmland (western portion of the site) and 17 acres of Grazing Land (eastern portion of the site). Reducing the footprint of the site so that the residential development is only on the eastern portion of the site (Grazing Land) and retaining the western 16 acres of Prime Farmland for agriculture would avoid the significant impact to Prime Farmland. The project's footprint would be reduced by approximately 50 percent and the number of residences would be reduced to approximately 135 units.

This alternative would avoid significant impacts to Prime Farmland. The proposed project would result in a significant and unavoidable VMT impact with and without mitigation, given VMT impacts are assessed using a per capita threshold (27.41 VMT per capita without mitigation, 27.37 VMT per capita with mitigation that includes issuance of transit passes to project owners, and 24.37 VMT per capita regardless of the extent of VMT reduction measures implemented, while the threshold is 20.94). Given the significant and unavoidable VMT impact is based on the location of the site (e.g., lack of jobs and transit in the City), this alternative would also result in a significant unavoidable VMT impact, as the units developed on the portion of the site mapped as less important Grazing Land would still have high VMT per capita due to the site location. Reducing the project footprint and number of units by half would not affect the per capita GHG emissions, which would continue to require mitigation to be reduced below the applicable threshold. Given the alternative would reduce the number of residents by half, the water and wastewater, and solid waste demands would be lower than the proposed project's demands by approximately half as well. This alternative would result in reduced operational criteria pollutant emissions due to less trips generated from the site. Given the smaller project may result in a shorter construction period, construction noise impacts to nearby residents would be reduced, however, the construction noise mitigation measures would still be required. The Reduced Footprint

Agricultural Preservation Alternative would avoid the significant and unavoidable impact to agricultural resources but would not avoid the significant and unavoidable VMT impact. This alternative could meet most of the project objectives, however, by only achieving half of the proposed housing units, this alternative would not achieve the project objective of providing market-rate and below-market rate (BMR) housing, as envisioned in the City of Morgan Hill General Plan, to the same degree as the project. Therefore, this alternative is rejected.

G. RECIRCULATION NOT REQUIRED

No new or substantial changes to the EIR were proposed as a result of the public comment process. The Final EIR responds to comments and makes only minor technical changes, clarifications or additions to the EIR. The minor changes, clarifications, and additions to the EIR do not identify any new significant impacts or substantial increase in the severity of any environmental impacts. Therefore, recirculation of the EIR is not required.

H. RECORD OF PROCEEDINGS

Various documents and other materials constitute the record of proceedings upon which the City base their findings and decisions contained herein. Documents related to this proposed project are located in the City of Morgan Hill Development Services, 17575 Peak Avenue, Morgan Hill, California 95037.

I. STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance the benefits of a project against its significant and unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, those effects may be considered acceptable (CEQA Guidelines Section 15093(a)). CEQA requires the agency to state in writing the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record (CEQA Guidelines Section 15093(b)). The proposed project would result in significant and unavoidable impacts related to agricultural and forestry resources, even after incorporation of mitigation measures MM AG-1.1 and MM AG1.2, which require a minimum of one acre of agricultural land (1:1 mitigation ratio) to be preserved for each acre of agricultural land changed to a non-agricultural use and acquisition and/or dedication of agricultural conservation easements over approved agricultural mitigation land, or payment to the City of the agricultural preservation in-lieu fee, and VMT, even after incorporation of Mitigation Measure MM TRN-2.1, which requires a financial contribution to the City's on-site demand rideshare service or issuance of transit passes to residents.

The City adopts and makes this Statement of Overriding Considerations regarding the

significant unavoidable impacts of the project and the anticipated benefits of the project. The City finds that the project's benefits of providing housing, including BMR units, outweighs the project's significant unavoidable environmental effects.

On balance, the City finds that there are specific considerations associated with the project that serve to override and outweigh the project's significant unavoidable effects. Therefore, pursuant to CEQA Guidelines Section 15093(b), these adverse effects are considered acceptable.

J. SUBSTANTIAL EVIDENCE SUPPORTING FINDINGS

Substantial evidence supporting each and every finding made herein is contained in the Final EIR and record of proceedings. Omission of reference in these findings to any evidence in the EIR and/or record of proceedings is not intended to exclude that evidence as supporting these findings.

In making these findings, the City Council has relied upon the expertise of a variety of independent technical and professional consultants to the City, and the expertise of the City's Staff. The City Council has also carefully considered the evidence submitted by property owners and other interested agencies and individuals. To the extent that evidence consists of expert opinions that differ from the opinions of the City's outside consultants and Staff, at most it represents a disagreement of experts, which is adequately reviewed in the EIR. Based on its review, the City Council has determined that the opinions of its outside consultants and Staff are valid and are hereby accepted. In some instances, the City Council has also relied on the expertise of other agencies who have provided comments on the Draft EIR and other actions related to the Project. To the extent that alternatives or mitigation measures were proposed by other agencies or interested persons that differ from the mitigation adopted herein, the City Council specifically rejects these proposals based on the substantial evidence in the record supporting the mitigation adopted as sufficient and necessary to mitigate impacts to a less than significant level or to the level that the impacts can feasibly be mitigated.

ATTACHMENT "A"

MITIGATION MONITORING AND REPORTING PROGRAM

Crosswinds Residential Project

File Numbers: EA2020-0007, SD2020-0003, and
SR2020-0010: Half – Dividend (Crosswinds)

May 3, 2023



CITY OF MORGAN HILL

PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Environmental Impact Report (EIR) prepared for the Crosswinds Residential Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the EIR concluded that the impacts from implementation of the project would be less than significant.

I, _____, the applicant, on the behalf of _____, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an EIR for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level, where feasible.

Project Applicant's Signature _____

Date _____



MONITORING AND REPORTING PROGRAM			
MITIGATIONS	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
AGRICULTURAL RESOURCES			
Impact AG-1: The project would convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. (Significant and Unavoidable Impact with Mitigation Incorporated)			
MM AG-1.1: A minimum of one acre of agricultural land (1:1 mitigation ratio) shall be preserved for each acre of agricultural land changed to a non-agricultural use. The required acreage of area to be protected through an agricultural conservation easement or agricultural preservation in-lieu fee will depend on the measurement of affected area. The 16 acres of Prime Farmland will be used for calculating the required mitigation.	To be implemented by the project applicant prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	Director of Development Services Department
MM AG-1.2: Conversion of agricultural land shall require off-setting acquisition and/or dedication of agricultural conservation easements over approved agricultural	To be implemented by the project applicant prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on	Director of Development Services Department

MITIGATIONS	MONITORING AND REPORTING PROGRAM	
Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p>mitigation land, or payment to the City of the agricultural preservation in-lieu fee, to support agricultural preservation activities. Developer acquisition/dedication of easements shall require the project to pay an agricultural lands preservation program stewardship fee to cover administrative costs and ongoing management and monitoring of the easements. Agricultural mitigation fees shall be required prior to the acceptance of a final parcel or subdivision map, or prior to issuance of building or grading permits. Easement dedication is required prior to issuance of building permits.</p>	<p>all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.</p>	
<p>BIOLOGICAL RESOURCES</p> <p>Impact BIO-1: The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. (Less than Significant Impact with Mitigation Incorporated)</p> <p>MM BIO-1.1: Construction shall be scheduled to avoid the nesting season. If construction can be scheduled to occur between September 1st and January 31st (inclusive) to avoid the raptor nesting season, no impacts will be expected. If construction will take place between</p>		
<p>To be implemented by qualified biologist prior to issuance of any grading and/or building permit.</p>		
<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans</p>		

MONITORING AND REPORTING PROGRAM			
Mitigations	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
February 1st and August 31 st , then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. Performance of the required surveys for construction occurring between February 1 st and August 31 st will ensure that impacts to nesting raptors are reduced to less than significant. Surveys will be completed within 30 days of the on-set of site clearing or construction activities. During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., trees, shrubs, buildings) onsite trees as well as all trees within 250 feet of the site for nests. The pre-construction survey shall be submitted to the City's Development Services Director or the Director's designee for review prior to tree removals or issuance of a grading permit.	prior to issuance of any grading and/or building permits.		Director of Development Services Department.
MM BIO-1.2: If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist will determine the extent of a disturbance-free buffer zone to be established around the nest (typically 250 feet for raptors and 50-100 feet for other species) that will remain off limits to	To be implemented by qualified biologist prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any	

MONITORING AND REPORTING PROGRAM			
MITIGATIONS	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
construction until the nesting season is over, to ensure that no nests of species protected by the Migratory Bird Treaty Act and California Fish and Wildlife Code will be disturbed during project implementation. A report indicating the result of the survey and any designated buffer zones shall be submitted to the satisfaction of the City's Development Services Director or Director's designee prior to issuance of a grading permit.		Grading and/or building permits.	Director of the Development Services Department.
Impact BIO-5: The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. (Less than Significant Impact with Mitigation Incorporated)	To be implemented by the project applicant prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	

MITIGATIONS		MONITORING AND REPORTING PROGRAM				
	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation			
reviewed by the City's Development Services Director or Director's designee.						
CULTURAL RESOURCES						
Impact CUL-2: Demolition and construction activities on the project site could unearth sensitive archaeological resources. (Less than Significant Impact with Mitigation Incorporated)						
MM CUL-2.1: A moderate potential exists for unrecorded historic-period archaeological resources to be within the project area. The developer shall enter into written contracts with an archaeologist and the Tamien Nation Tribe, and pay all fees associated with the activities required by this Mitigation Measure. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply:	To be implemented by a qualified archaeologist during project demolition, grading, and construction activities.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	Director of Development Services Department.			
<p>(a) Prior to the start of grading or earthmoving activity (includes demolition and moving of heavy equipment on site) on the "first day of construction," the archaeologist and Tribal Monitor shall hold a pre-construction meeting for the purposes of "cultural sensitivity training" with the general contractor or subcontractors.</p>						

MITIGATIONS	TIMEFRAME AND RESPONSIBILITY FOR IMPLEMENTATION	MONITORING AND REPORTING PROGRAM
Method of Compliance	Oversight of Implementation	
<p>(b) A Tamien Nation Tribal Monitor shall be present on-site to monitor all ground-disturbing activities and an archaeologist shall be on-call. 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:</p> <p>1. Work at the location of the find shall halt immediately within 50 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.</p> <p>2. 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.</p>		

MONITORING AND REPORTING PROGRAM			
MITIGATIONS	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p>3. 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.</p> <p>4. 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 City Development Services Director or Director's designee. The action plan shall be in conformance with California Public Resources Code 21083.2. An archaeologist shall be on-call during 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.</p> <p>(c) The following policies and procedures for treatment and disposition of inadvertently</p>			

MONITORING AND REPORTING PROGRAM			
MITIGATIONS	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
discovered human remains or archaeological materials shall apply. If human remains are discovered, it is probable they are the remains of Native Americans.	<ol style="list-style-type: none">1. 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.2. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.3. Surgical masks should also be worn to prevent exposure to pathogens that may be associated with the remains.		(d) In the event that known or suspected Native American remains are encountered,

MITIGATIONS	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
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.	(e) 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		

MITIGATIONS	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
discovery, by the monitoring archaeologist and tribal representative (typically 25 to 50 feet for single burial or archaeological finds).	(f) The discovery locale shall be secured (e.g., 24-hour surveillance) as directed by the City or County Coroner if considered prudent to avoid further disturbances.	(g) 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:	<ul style="list-style-type: none">• 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)

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<ul style="list-style-type: none">• The Tamien Nation (707) 295-4011 (office) and (925) 336-5359 (THPO) <p>(h) 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.</p> <p>(i) 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 as the MLD).</p> <p>(j) Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.</p> <p>(k) Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Development Services Director or Director's designee, the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The</p>		

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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.	(I) 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.	To be implemented by the project applicant prior to issuance of any grading and/or building permit.	Director of Development Services Department.
	MM CUL-2.2: The project applicant shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources including prehistoric Native American burials. Any archaeological site information supplied to the Contractor Foreman or authorized representative shall be considered confidential. Information on the project plans shall be verified by the City's Development Services Director or Director's	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	

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designee prior to issuance of a grading permit or any building permit.			
GREENHOUSE GAS EMISSIONS			
Impact GHG-1: The project would generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. (Less than Significant Impact with Mitigation Incorporated)			
MM GHG-1.1: The project applicant shall develop a GHG reduction plan to reduce GHG emissions in the build-out year by 206 MT/year prior to issuance of a grading permit and to the satisfaction of the City's Development Services Director or Director's designee. These reductions shall be kept in place by the project until the City adopts a qualified GHG reduction plan (consistent with CEQA Guidelines Section 15183.5) that contains goals and associated strategy to decrease emissions in a manner consistent with meeting the State's interim 2030 GHG emissions reduction target of 40 percent below 1990 levels.	To be implemented by the project applicant prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	Director of Development Services Department.
MM GHG-1.2: A combination of the GHG reduction elements listed below would reduce project GHG impacts. The project applicant shall implement some or all of the following elements to further reduce GHG	To be implemented by the project applicant prior to issuance of any grading and/or building permit and prior to occupancy of the project.	All measures will be required as part of the development permit. All measures will be printed on all construction documents,	Director of Development Services Department.

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<p>emission from operation of the project and the service population efficiency metric such that the metric would be below the significance threshold. The GHG reduction elements to be included within the project shall be verified prior to the issuance of a building permit and shall be to the satisfaction of the City's Development Services Director or Director's designee.</p> <ul style="list-style-type: none"> • Prior to issuance of any building permits, the project applicant shall submit a Transportation Demand Management (TDM) Plan, which would include measures to reduce vehicle miles traveled (VMT) and GHG emissions, to the City's Development Services Director or Director's designee; • The TDM Plan shall be implemented by the Homeowners Association (HOA) once the proposed residences are occupied. • The project applicant shall install solar power systems or other renewable electric generating systems that provide electricity to power on-site equipment and possibly provide excess electric power; • The project applicant shall provide infrastructure for electric vehicle charging 	<p>prior to issuance of any grading and/or building permits.</p>		

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for residential units (i.e., provide 220 VAC power); and, • The project applicant shall increase water conservation above state average conditions for residential users by installing low flow water utilities and irrigation.			
MM GHG-1.3: The project applicant shall purchase verifiable carbon emission offsets through a verified registry for remaining amount of GHG reduction required, after exhausting on-site reduction options prior to issuance of a building permit. Offsets shall be determined by calculating the total estimated number of GHG emissions the project would create over a 30-year period, and purchasing verifiable offsets based on the calculated number of GHG emissions.	To be implemented by the project applicant prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of any grading and/or building permits.	Director of Development Services Department
HAZARDS AND HAZARDOUS MATERIALS			
Impact HAZ-2: The project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. (Less than Significant Impact with Mitigation Incorporated)			
MM HAZ-2.1: Since lead-impacted soils are determined to be present in concentrations above established regulatory environmental screening levels, the project applicant shall enter into the Santa Clara County Department of Environmental Health's	To be implemented by the project applicant prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans	Santa Clara County Department of Environmental Health and Director of the Development Services Department

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(SCCDEH) Voluntary Cleanup Program (VCP), or equivalent, to formalize regulatory oversight of the mitigation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant responsible for the contaminated area of the site shall remove contaminated soil to levels acceptable to the SCCDEH (or equivalent oversight agency) for residential exposure prior to issuance of any grading permits.	prior to issuance of grading permits.		Santa Clara County Department of Environmental Health and Director of the Development Services Department
MM HAZ-2.2: A Removal Action Plan, Soil Mitigation Plan or other similarly titled report describing the remediation shall be prepared and implemented to document the removal and /or capping of contaminated soil. Prior to issuance of any grading permits, a copy of any reports prepared shall be submitted to the Development Services Director or Director's designee. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH (or equivalent oversight agency).	To be implemented by the project applicant prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.	
MM HAZ-2.3: The project applicant shall prepare a Site Management Plan (SMP) prior to issuance of any grading permits to reduce or eliminate exposure risk to human health and the environment, specifically,	To be implemented by the project applicant prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on	Santa Clara County Department of Environmental Health and Director of the

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<p>potential risks associated with the presence of organochlorine pesticides and pesticide-based metals. The SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions:</p> <ul style="list-style-type: none"> • Procedures for transporting and disposing the waste material generated during removal activities, if such transport and disposal is necessary; • Procedures for stockpiling soil on-site if such stockpiling is necessary; • Provisions for collecting soil samples to prior to grading activities; • Provisions for confirmation soil sampling as appropriate to obtain a “No Further Action” letter (or equivalent) from the state and/or local agency assuming oversight for the site; • Procedures to ensure that fill and cap materials are verified as clean truck routes; • Staging and loading procedures and record keeping requirements. <p>The SMP shall reference the Storm Water Pollution Prevention Plan (SWPPP) required</p>	<p>all construction documents, contracts, and project plans prior to issuance of grading permits.</p>	<p>Development Services Department</p>	<p>Development Services Department</p>

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<p>for the project in accordance with the Construction General Permit Order issued by the California State Water Resources Control Board. The SMP shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent regulatory agency, for review and approval. Copies of the approved SMP shall be provided to the City's Development Services Department prior to issuance of any grading permits.</p> <p>MM HAZ-2.4: All contractors and subcontractors at the project site shall develop a health and safety plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. Each Health and Safety plan shall be implemented under the direction of a Site Safety and Health Officer. The Health and Safety Plan shall include, but not limited to, the following elements, as applicable:</p> <ul style="list-style-type: none"> • Provisions for personal protection and monitoring exposure to construction workers; • Procedures to be undertaken in the event that contamination is identified above 	<p>To be implemented by the project applicant prior to issuance of any grading and/or building permit.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.</p>	<p>Santa Clara County Department of Environmental Health and Director of the Development Services Department</p>

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<p>action levels or previously unknown contamination is discovered;</p> <ul style="list-style-type: none"> • Procedures for the safe storage, stockpiling, and disposal of contaminated soils; • Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities; • Emergency procedures and responsible personnel. 	<p>The HSP shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent regulatory agency, for review and approval. Copies of the approved HSP shall be provided to the City's Development Services Department prior to issuance of any grading permits.</p>	<p>To be implemented by the project applicant prior to issuance of any grading and/or building permit.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.</p>
			<p>Santa Clara County Department of Environmental Health and Director of the Development Services Department</p>

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<p>disposal requirements. The SCCDEH (or equivalent oversight agency) may also approve leaving in-place some of the contaminated soil if the contaminated soil will be buried under hardscape and/or several feet of clean soil and not at risk of being encountered by future site users or nearby residents.</p> <p>MM HAZ-2.6: 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</p>	<p>To be implemented by the project applicant prior to issuance of any grading and/or building permit.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.</p>	<p>Santa Clara County Department of Environmental Health and Director of the Development Services Department</p>

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<p>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. The following measures shall be included in the work plan:</p> <ul style="list-style-type: none">• During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.			

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<ul style="list-style-type: none"> • All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure. • A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above. • Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications. • Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers. 				

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<ul style="list-style-type: none"> Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed. 			<p>Santa Clara County Department of Environmental Health and Director of the Development Services Department</p>
<p>MM HAZ-2.7: Prior to issuance of a grading permit, the project applicant shall research well records from Valley Water and attempt to locate abandoned wells at the site. The project applicant or contractor shall contact Valley Water's Wells Hotline immediately to assist in the identification of abandoned/unregistered wells or structures and help determine the appropriate means of addressing them. If the wells are identified, or subsequently encountered during earthwork activities, the wells shall be</p>	<p>To be implemented by the project applicant prior to issuance of any grading and/or building permit.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.</p>	

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properly destroyed in accordance with Valley Water Ordinance 90-1. If septic systems are encountered during earthwork activities, those systems shall be abandoned in accordance with SCCDEH requirements.			
TRANSPORTATION			
Impact TRN-2: The project would conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). (Significant and Unavoidable Impact with Mitigation Incorporated)			
MM TRN-2.1: Prior to project occupancy, the project applicant shall develop and implement a Transportation Demand Management (TDM) plan which targets achieving a reduction in residential vehicle trips to and from the site. The TDM plan shall be prepared by a qualified traffic consultant and in coordination with the City of Morgan Hill Development Services Director or Designee. The TDM plan shall quantify the reduction in VMT. The TDM shall require the project applicant to make a financial contribution to the City's on-site demand rideshare service (MoGo), as a one-time or annual financial contribution based on City approval, or during project operations, the developer shall provide fully (100 percent) subsidized annual VTA transit passes for all project homeowners (a	To be implemented by the project applicant prior to issuance of occupancy and during project operation.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of building permits.	Director of the Development Services Department

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maximum of one transit subsidy per residential unit, which would result in up to 269 transit passes per year). This subsidized transit program shall be approved by the City of Morgan Hill's Public Services Director or Director's designee prior to issuance of occupancy.			

Source: City of Morgan Hill. *Crosswinds Residential Project Final EIR*. May 3, 2023.

Resolution 23-04 and 23-05

Final Audit Report

2023-05-31

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