

RESOLUTION NO. 23-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING THAT THE CITY COUNCIL APPROVE A VESTING TENTATIVE MAP AND A DESIGN PERMIT FOR A RESIDENTIAL DEVELOPMENT, COMPRISED OF 269 UNITS, LOCATED AT THE SOUTHWEST INTERSECTION OF HALF ROAD AND MISSION VIEW DRIVE FOR THE CROSSWINDS AT MORGAN HILL (APNS 728-30-001, 728-30-002, 728-30-003, AND 728-30-004)

WHEREAS, on June 16, 2020, Dividend Homes submitted applications for a Vesting Tentative Map and Design Permit for a 269-unit residential development, comprised of 56 single-family court-yard style homes, 64 duets, and 149 townhome-style condominium units. (SD2020-003/SR2020-0010: Half-Dividend (Crosswinds)); and

WHEREAS, such requests were considered by the Planning Commission at its meeting of May 23, 2023; and

WHEREAS, an Environmental Impact Report has been prepared for this project as part of the Vesting Tentative Map and Design Review Permit applications. Mitigation measures and a monitoring program will be adopted for those environmental impacts identified in the report; and

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

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

SECTION 1. The Planning Commission has considered the full record before it, which may include but not limited to such things as the staff report, public testimony, and other materials and evidence submitted or provided. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. The Vesting Tentative Map, together with its provisions for its design and improvements, is consistent with the General Plan or specific plans adopted by the City.

The Vesting Tentative Map entitled "The Crosswinds at Morgan Hill" submitted by Ruggeri-Jensen-Azar (RJA) April 2023, attached as Exhibit A has been designed consistent with the City's General Plan, considering neighborhood circulation patterns, and providing future connections.

SECTION 3. The project is consistent with the Zoning Ordinance, and General Plan.

The project site is located in the Residential Attached Low (RAL) Zoning District. The project, as proposed, is consistent with the General Plan and meets the base zoning standards.

SECTION 4. The project is subject to the SB 330 permit streamlining process and has been designed consistent with the City's Design Review Criteria and the City's Residential Development Design and Development Standards adopted by City Council Resolution No. 21-001 on January 20, 2021.

The proposed project substantially complies with all applicable design standards and guidelines contained in the Design Review Handbook and the City's adopted Residential Development Design and Development Standards.

SECTION 5. The proposed project development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

The development site is not located adjacent to any wildlands that could expose people or structures to wildfire risks. The project site is not located within an earthquake fault zone. In addition, the project will comply with stormwater and building code requirements. The project will not be detrimental to the public health, safety, or welfare, and will not be materially injurious to the properties or improvements in the vicinity.

SECTION 6. The proposed project complies with all Design Review criteria in subsection H. of Section 18.108.040 of the municipal code.

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

SECTION 7. The Planning Commission recommends that the City Council approves SD2020-0003/SR2020-0010: Half-Dividend (Crosswinds). The design shall be expressly conditioned in conformance with conditions incorporated herein and as attached as Exhibit "B". Minor deviations to the site review permit may be approved by the Development Services Director when consistent with the overall intent of the project.

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

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

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

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

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

ATTEST:

Jenna Luna
JENNA LUNA, Deputy City Clerk

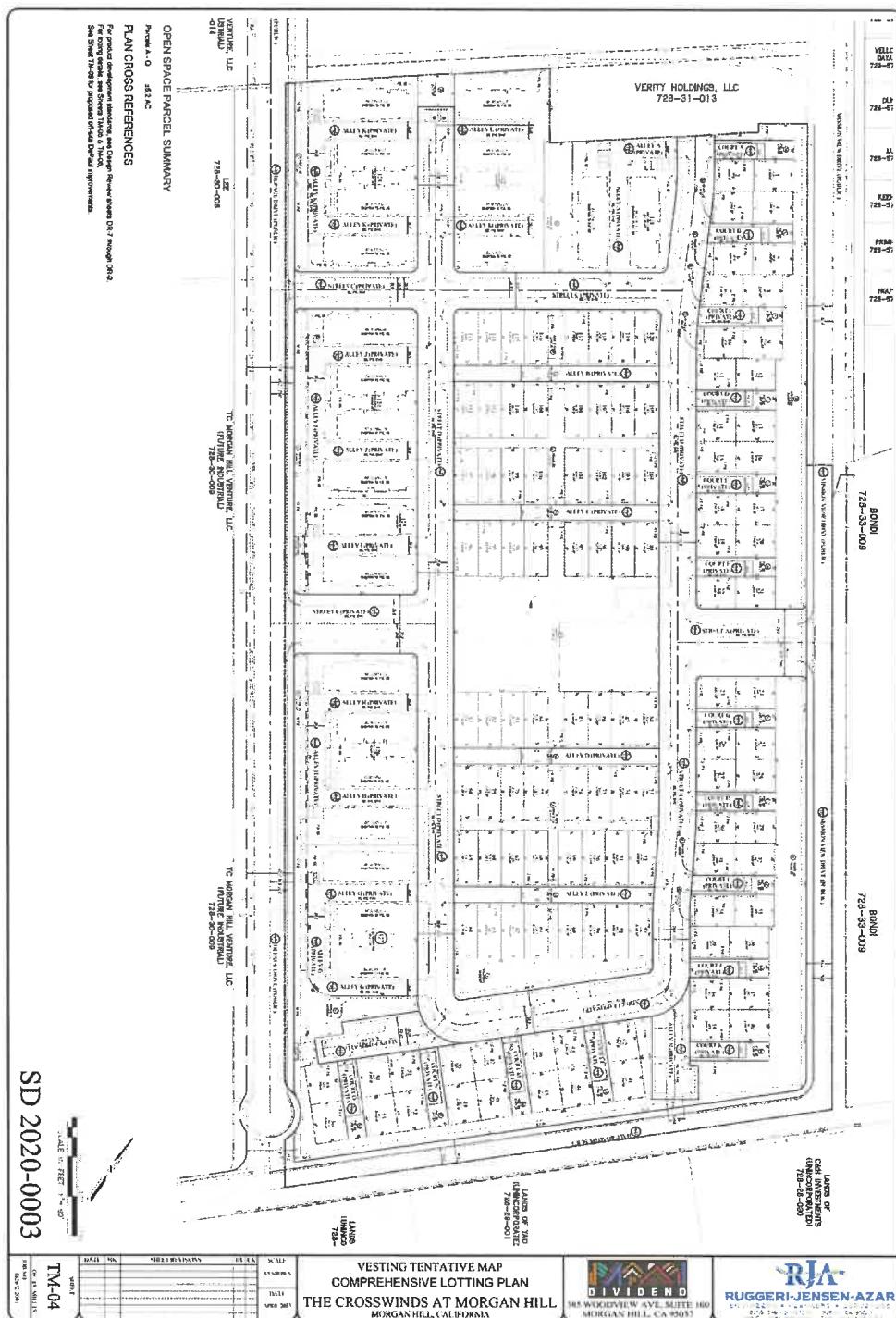
APPROVED:

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

JOESEPH MUELLER, Chair

EXHIBIT "A"

VESTING TENTATIVE MAP



**EXHIBIT "B"
STANDARD CONDITIONS**

**APPLICATION NO: SR2020-0010/SD2020-0003/EA2020-0007:HALF - DIVIDEND
(CROSSWINDS)**

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

Legend

MHMC= Morgan Hill Municipal Code

MHARH= Morgan Hill Architectural Review Handbook

CMH= City of Morgan Hill

CFC= California Fire Code

I. PROJECT DESCRIPTION

The project includes a total of 269 residential units, comprised of 56 single-family, 64 duets, and 149 condominium units. The single-family detached residences would consist of clustered courtyard-style homes and would be constructed on the eastern and southern perimeters of the project site, along Mission View Drive and Half Road. The single-family courtyard residences would be two-stories and reach a maximum height of 30 feet. The two-story attached duets would be located in the center of the project site and would reach a maximum height of 30 feet. Three-story townhome-style condominiums would be constructed along the western and northwestern perimeters of the project site, along DePaul Drive and adjacent to a vacant parcel. The condominiums would reach a maximum height of 39 feet. There would be a total of 40 below-market-rate (BMR) units dispersed throughout the project and unit type. The project would include recreational areas including a clubhouse, pool, children's play area, and barbecue/picnic areas. The project would also include pedestrian paths, and landscaping, including trees and lawn areas.

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

- A. Vesting Tentative Map SD2020-0003
- B. Design Review SR2020-0010
- C. Environmental Assessment EA2020-0007

II. PROJECT MITIGATION MEASURES

The applicant shall be subject to compliance with the mitigation measures of the project's adopted Mitigation Monitoring and Reporting Program. The following mitigation measures shall be included with all building permit, grading, or improvement plans.

Agricultural Resources

- A. **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.
- B. **MM AG-1.2:** Conversion of agricultural land shall require off-setting 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.

Biological Resources

- C. **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 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.
- D. **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 issuance of a grading permit.

- E. **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.

Cultural Resources

- F. **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 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.

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 City's 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 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, 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 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:

- 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 as 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.

G. **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 designee prior to issuance of a grading permit or any building permit.

Greenhouse Gas Emissions

- H. **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.
- I. **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.
- J. **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.
- Hazards and Hazardous Materials**
- K. **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.
- L. **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).
- M. **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 requirements.

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.

N. **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:

- 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.

O. **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.

- 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 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.

- Q. **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.

Transportation

- R. **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 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.

III. PROJECT CONDITIONS OF APPROVAL

This Vesting Tentative Map and Design Permit approval is limited to the plan set date stamped April 29, 2023 on file (File Number SR2020-0010) with the Development Services Department. The approved building plans and landscape plans must be in substantial conformance with the Design Permit plans as determined by the Development Services Director. These documents show the location and sizes of all lots in this development, the location and dimensions of all vehicle and pedestrian circulation ways (ingress/egress), common areas, and other easement areas.

It shall be the responsibility of the Owner to ensure that any changes or modifications to the Project or any Unit are in compliance with the original City Conditions of Approval of the Project, which are incorporated herein.

The Final Map shall be in substantial compliance with the approved Vesting Tentative Map as determined by the City Engineer and Development Services Director.

PLANNING DIVISION

DEFENSE AND INDEMNITY

- A. As part of, and in connection, with this application to the City of Morgan Hill, Applicant agrees to defend, indemnify, and hold harmless the City of Morgan Hill, its officers, agents, employees, officials and representatives (Indemnitees) from and against any and all claims, actions, or proceedings arising from any suit for damages or for equitable or injunctive relief which is filed against City to attack, set aside, void or annul its approval of this application or any related decision, or the adoption of any environmental documents which relates to said approval. The City shall promptly notify the Applicant of any such claim, action or proceeding and the City shall cooperate fully in the defense thereof. In the event that Applicant is required to defend Indemnitees in connection with the proceeding, Indemnitees shall retain the right to approve (a) the counsel to so defend Indemnitees; (b) all significant decisions concerning the manner in which the defense is conducted; and (c) any and all settlements, which approval shall not be unreasonably withheld. This indemnification shall include, but is not limited to, (a) all pre-tender litigation costs incurred on behalf of the City, including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals; (b) reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted; and (c) all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party arising out of or in connection with the approval of the application or related decision. City may, in its sole discretion, participate in the defense of such action; but such participation shall not relieve Applicant of its obligations under this condition.

The undersigned hereby represents that they are the Applicant or are fully empowered by the Applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by Applicant to be bound by such conditions.

TIME LIMITS

- A. **Term:** The Design Permit approval granted pursuant to this Resolution shall remain in effect for two years to _____. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. **(MHMC 18.108.040)**
- B. **Term:** The Vesting Tentative Map approval granted pursuant to this Resolution shall remain in effect for two years to _____. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Development Services Department prior to the expiration date. **(MHMC 18.104.210)**

SITE DEVELOPMENT

- A. **Final Site Development Plans:** Final site development plans shall be reviewed for conformance with Design Review Permit SR2020-0010 Half-Dividend (Crosswinds) and in accordance with Morgan Hill Municipal Code Section 18.108.040 (Design Permit) and approved by the Development Services Department prior to issuance of a building permit. All such plans shall include:
 - 1. Detail depicting all concrete curbs as full formed.
 - 2. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing.
 - 3. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities.
 - 4. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be architecturally screened from view or located interior to the building. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berthing, and

landscaping. (MHARH p.20, 45, 79) For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.

5. All existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.
- B. **Pedestrian Access:** The Project shall provide pedestrian walkways in compliance with ADA requirements and with Section 18.72.060.H of the Morgan Hill Municipal Code, which states the following:
1. Parking lots with more than thirty parking spaces shall include a pedestrian walkway in compliance with ADA requirements.
 2. The design of the pedestrian walkway shall be clearly visible and distinguished from parking and circulation areas through striping, contrasting paving material, or other similar method as approved by the Development Services Director.
- C. **Bicycle parking.** The project shall provide short-term and long-term bicycle parking spaces in conformance with Section 18.72.080 and Table 18.72-7 of the Morgan Hill Municipal Code:

Table 18.72-7: Required Bicycle Parking Spaces

Land Use	Required Bicycle Parking Spaces	
	Short-Term Spaces	Long-Term Spaces
Multi-family dwellings	10 percent of required automobile spaces; min. of 4 spaces	1 per 5 units

1. **Short-Term/Class II Bicycle Parking Standards.** Short-term bicycle parking shall be located within one hundred feet of the primary entrance of the structure or use it is intended to serve.
2. **Long-Term Bicycle Parking Standards.** The following standards apply to long-term bicycle parking:
 - a. Location. Long-term bicycle parking shall be located on or within seven hundred fifty feet of the use that it is intended to serve.
 - b. Security. Long-term bicycle parking spaces shall be secured. Spaces are considered secured if they are:
 - i. In a locked room or area enclosed by a fence with a locked gate;
 - ii. Within view or within one hundred feet of an attendant or

- security guard;
 - iii. In an area that is monitored by a security camera; or
 - iv. Visible from employee work areas.
3. **Parking Space Dimensions.**
 - a. Minimum dimensions of two feet by six feet shall be provided for each bicycle parking space.
 - b. An aisle of at least five feet shall be provided behind all bicycle parking to allow room for maneuvering.
 - c. 2 feet of clearance shall be provided between bicycle parking spaces and adjacent walls, polls, landscaping, pedestrian paths, and other similar features.
 - d. Four feet of clearance shall be provided between bicycle parking spaces and adjacent automobile parking spaces and drive aisles.
 4. **Rack Design.** Bicycle racks must be capable of locking both the wheels and the frame of the bicycle and of supporting bicycles in an upright position.
 5. **Cover.** Required cover for bicycle parking spaces shall be permanent, designed to protect the bicycle from rainfall, and at least seven feet above the floor or ground.

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

- D. **Electric Vehicle Charging Stations:** The Project shall provide electric vehicle charging stations in compliance with Section 18.72.040.C of the Morgan Hill Municipal Code. The project is required to provide two charging stations, plus one for each additional fifty parking spaces. The developer shall provide location of each charging station prior to issuance of building permit.
- E. **Tandem parking and garages:** Residents shall use tandem parking spaces and dedicated garages for parking. This requirement shall be incorporated into the Covenants, Conditions and Restrictions (CC&R's) for the project.
- F. **Street Names:** Street names, private or otherwise, used to identify building locations shall be submitted at building permit stage to the Planning Division for approval. Proposed street names shall comply with the Street Naming Policy approved by City Council (Resolution No. 4601).
- G. **Tree Protection:** Unless tree removal has been previously approved, all trees located within 25 feet of any site disturbance shall be protected using the following minimum protection measures (these guidelines shall be included with all site development plans):

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

- H. **Future Street Notification:** The developer shall install a sign at the terminus of Street B adjoining the undeveloped land to the north of the project site (Assessor's Parcel Number 728-31-013) to notify residents of the possible future street extension. The sign shall read, "Future Through Street, Subject to Increased Traffic" or similar language subject to the review and approval of the Development Services Director. This future street extension notification shall also be included in the disclosures during the sale of a residence within the project site.

BUILDING DESIGN

- A. **Roof mounted mechanical equipment:** All roof mounted mechanical equipment shall be placed within a screened roof top enclosure depicted on the elevation drawings or located below the parapet level and shall not be visible from the ground at any distance from the building. Cross section roof drawings shall be provided at the building permit stage indicating the relative height of the screen wall or parapet. Minimum screen height or parapet depth shall be 5 feet or greater to match the height of any proposed equipment. (MHARH p.48, 65, 87, 106)
- B. **Building mounted lighting:** Lighting fixtures shall not project above the facia or roofline of the building. Any ground mounted lighting projecting onto the building or site shall be subject to the review and approval of the Development Services Director. Adjustment to the lighting intensity may be required after the commencement of the use. (MHARH p. 67, 109)
- C. **Architectural elements:** A final site development plan shall be provided at the building permit stage for review and approval to the Development Services Director prior to issuance of a building permit.
 - 1. All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior.
 - 2. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building.

PARKING, VEHICULAR ACCESS AND LANDSCAPING

- A. **Parking lot landscaping:** All landscaping within parking lots shall comply with the requirements of Chapter 18.72 (Landscaping) in addition to the standards within this section.
 - 1. **Interior Landscaping.** All areas within a parking lot not utilized for parking spaces or access/circulation shall be landscaped. For parking lots with more than fifteen spaces, the minimum amount of interior landscaping is specified in Table 18.72-6. Interior landscaping is defined as any landscaped area surrounded on at least two sides by parking spaces or drive aisles, and excluding areas around the perimeter of the parcel or development site.

Table 18.72-6: Minimum Required Parking Lot Landscaping

Number of Required Parking Spaces	Percent of Surface Parking Area to be Landscaped
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16-30	10 percent
31-60	15 percent
Over 60	20 Percent

2. **Shade Trees.**
 - a. One shade tree shall be provided for every five parking spaces in a parking lot.
 - b. Shade trees shall be a minimum twenty-four-inch box in size and shall provide a minimum thirty-foot canopy at maturity.
 - c. Shade trees shall be of a type that can reach maturity within fifteen years of planting and shall be selected from a city-recommended list of canopy tree species.
 - d. Shade trees shall be arranged in a parking lot to provide maximum shade coverage (based on a thirty-foot canopy) on August 21. The arrangement should approximate nearly fifty percent shade coverage.
 3. **Concrete Curbs.**
 - a. All landscape areas shall be separated from parking spaces, drive aisles and driveways by a continuous, raised concrete curb. Raised concrete curbs shall be a minimum of six inches high by four inches deep.
 - b. The city may approve alternatives to raised concrete curbs as needed to comply with any mandatory stormwater drainage standards.
 4. **Parking Space Landscaping.** A maximum of two feet at the front end of a parking space may be landscaped with low shrubs or ground cover in which a vehicle could extend over in lieu of paving surface. This landscaping may not count toward minimum required parking lot landscaped area.
 5. **Timing.** Landscaping shall be installed prior to the city's authorization to occupy any buildings served by the parking area, or prior to the final inspection for the parking lot.
- B. **Landscape maintenance agreement:** The applicant shall enter into a two-year landscape maintenance agreement effective upon acceptance of landscaping improvements and provide an appropriate bond as required by Section 18.64.070 (Landscaping maintenance and enforcement) of the Municipal Code. Bond amount shall be equal to 100 percent of the value of the landscaping and irrigation improvements for the development project.
- C. **Planting and irrigation working drawings:** Detailed landscape planting and irrigation working drawings shall be submitted to the Development Services

Director for approval prior to issuance of building permits. Landscape plans for streets and landscape easements shall be part of the improvement plan submittal.

- D. **Lighting:** Walkways and pedestrian pathways in landscaped areas or common areas not considered building entrances or a part of parking lot areas shall be illuminated with a minimum of one (1) foot-candle to ensure safe nighttime conditions. **(MHARH p.30, 67, 108)**
 - 1. A final photometric plan shall be provided at the building permit stage for review and approval to the Development Services Director prior to issuance of a building permit.
- E. **Maintenance of landscaping:** The landscaping installed and accepted with this project shall be maintained on the site as stated within the approved plans. Any alteration or modification to the landscaping shall not be permitted unless otherwise approved by the Development Services Director.
- F. **Water Conserving Landscape Ordinance:** The landscape plans shall be in conformance with the City's Water Conserving Landscape Ordinance that was developed in accordance with California law. This Ordinance restricts landscaping turf to certain areas, specifies plant selection, requires certain types of irrigation equipment, and calls for the development of comprehensive water use calculations as an aspect of the submitted landscape plans. **(MHMC 18.64)**
- G. **Reciprocal Ingress/Egress Easements:** Prior to issuance of a certificate of occupancy, the property owner shall record an appropriate deed restriction and covenant running with the land subject to review and approval of the Development Services Director for a reciprocal ingress/egress easement along the common driveway.

SIGNS

- A. **Separate application required for sign approval:** Signs proposed for this development shall be designed in conformance with the Sign Ordinance and shall require separate application and approval by the Planning Division prior to installation of any signs.
- B. **Directory signs required:** Directory sign(s) and location map(s) shall be provided for apartment, condominium, or townhouse projects prior to occupancy. Location of the sign(s) shall be interior to the project and design of the directory sign(s) shall be approved by the Planning Division and Fire Department prior to issuance of building permits. **(MHARH p.61)**

HABITAT PLAN

- A. **Fees:** The approved project is covered pursuant to the Santa Clara Valley

Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.

- B. **Application Package:** Prior to issuance of a grading permit, the project shall complete and submit a Habitat Plan Application Package. All fees shall be paid prior to issuance of a grading permit. (MHMC 18.132)
- C. **Conditions:** Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt). (MHMC 18.132)

AIR QUALITY

- A. **Dust, Noise, Vibration and Materials Management Plan:** A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be submitted for review prior issuance of a grading permit and requirements shall be included on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. (MHMC 18.76)
 - 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - 4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
 - 5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - 6. Replant vegetation in disturbed areas as soon as possible after completion of construction.

7. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
9. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

CULTURAL RESOURCES

- A. **Significant historic or archaeological materials:** A moderate potential exists for unrecorded historic-period archaeological resources to be within the project area. The 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 condition. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply:
 1. Prior to start of grading or earthmoving activity on the "first day of construction", the archaeologist and Tamien Nation Tribal Monitor shall hold a pre-construction meeting for the purposes of "cultural sensitivity training" with the general contractor and subcontractors.
 2. 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:
 - a. Work at the location of the find will halt immediately within fifty feet of the find. If an archaeologist is not present at the time of the discovery, the applicant shall contact an archaeologist for evaluation of the find to determine whether it qualifies as a unique archaeological resource as defined by this chapter;

- b. If the find is determined not to be a Unique Archaeological Resource, construction can continue. The archaeologist will prepare a brief informal memo/letter in collaboration with a tribal representative that describes and assesses the significance of the resource, including a discussion of the methods used to determine significance for the find;
 - c. If the find appears significant and to qualify as a unique archaeological resource, the archaeologist will determine if the resource can be avoided and will detail avoidance procedures in a formal memo/letter; and
 - d. If the resource cannot be avoided, the archaeologist in collaboration with a tribal representative shall develop within forty-eight hours an action plan to avoid or minimize impacts. The field crew shall not proceed until the action plan is approved by the Development Services Director. The action plan shall be in conformance with California Public Resources Code 21083.2.
3. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply. If human remains are discovered, it is probable they are the remains of Native Americans,
 - a. If human remains are encountered, they shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need to know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.
 - b. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
 - c. Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.
 4. In the event that known or suspected Native American remains are encountered, or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles,

ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, ground stone mortars and pestles), culturally altered ash stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials and historic structure remains such as stone lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the exclusion zone as defined below.

5. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the contractor foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the monitoring archaeologist and tribal representative (typically twenty-five to fifty feet for single burial or archaeological find).
6. The discovery locale shall be secured (e.g., 24-hour surveillance) as directed by the City or County if considered prudent to avoid further disturbances.
7. The Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition:
 - The City of Morgan Hill Development Services Director (408) 779-7247
 - The Contractor's Point(s) of Contact
 - The Coroner of the County of Santa Clara (if human remains found) (408) 793-1900
 - The Native American Heritage Commission (NAHC) in Sacramento (916) 653-4082
 - The Amah Mutsun Tribal Band (916) 481-5785 (H) or (916) 743-5833 (C)
 - The Tamien Nation (707)295-4011 (office) and (925)336-5359 (THPO)
8. The Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American the Coroner has 24 hours to notify the NAHC.
9. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD). (Note: NAHC policy holds that the

Native American Monitor will not be designated the MLD.)

10. Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.
11. Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Development Services Director the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the appropriate tribe may be considered and carried out.
12. If the MLD recommendation is rejected by the City of Morgan Hill the parties will attempt to mediate the disagreement with the NAHC. If mediation fails then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

NOISE

- A. **Construction Hours:** The project shall comply with Chapter 8.28 of the Morgan Hill Municipal Code which prohibits construction activities between 8:00 PM and 7:00 AM, Monday through Friday, and between 6:00 PM and 9:00 AM on Saturdays. Construction activities may not occur on Sundays or federal holidays.
- B. **Noise Construction Control Plan:** The project applicant shall develop a noise construction control plan, which shall be submitted to the Development Services Director or Director's designee for review and approval prior to issuance of a grading permit. The noise construction control plan shall include but not be limited to the following construction best management controls:
 - Equipment and trucks used for construction shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds);
 - Impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools; and

- Stationary noise sources shall be located as far from noise-sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or include other measures.
- Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary noise barrier fences would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction. Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Where feasible, temporary power service from local utility companies should be used instead of portable generators.
- Locate cranes as far from noise-sensitive receptors as possible.
- During final grading, substitute graders for bulldozers, where feasible. Wheeled heavy equipment are quieter than track equipment and should be used where feasible.
- Substitute nail guns for manual hammering, where feasible.
- Avoid the use of circular saws, miter/chop saws, and radial arm saws near the adjoining noise-sensitive receptors. Where feasible, shield saws with a solid screen with material having a minimum surface density of two pounds per square foot (e.g., such as 0.75-inch plywood).
- Maintain smooth vehicle pathways for trucks and equipment accessing the site and avoid local residential neighborhoods as much as possible.
- During interior construction, the exterior windows facing noise-sensitive receptors should be closed.
- During interior construction, locate noise-generating equipment within the building to break the line-of-sight to the adjoining receptors.
- The contractor shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify

- a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

GENERAL

- A. **Mitigation Fee Act:** Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of this development project for the purpose of defraying all or a portion of the cost of public facilities related to this development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected as part of development agreements. The Mitigation Fee Act Fees applying to this project are listed in the schedule of fees to be provided at building permit stage. Notice is also hereby given that the Developer has an opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval or conditional approval of this development project and that the 90-day protest period has begun.
- B. **Covenants, Conditions and Restrictions:** The applicant shall provide a set of Covenants, Conditions and Restrictions (CC&R's), Bylaws and Articles of Incorporation, for review and approval by the Development Services Director prior to final occupancy or recordation of a final map. All such CC&Rs shall include the following:
1. The Owners recognize that the use, modification and proper maintenance of the Common Area and public right-of-way(s)* are for the benefit of all citizens of the City of Morgan Hill (City) and that the City is an intended third-party beneficiary of these covenants, conditions and restrictions and may, upon notice of hearing as set forth below, exercise the same powers of enforcement as the Association.
- *Public right-of-way: Exclusive of streets dedicated to and accepted by the City of Morgan Hill.
2. The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within

thirty (30) days of the mailing or delivery of such notice, the City shall have standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.

3. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association.
 4. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
 5. This section may not be amended without the prior written consent of the Development Services Director for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
 6. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance obligation or duty of maintenance is increased by such amendment.
- C. **Signed copies of Approval Certificate:** Submit two (2) signed copies of the Approval Certificate to the Planning Division prior to issuance of a building permit.
- D. **Minimize Seismic Shaking:** To avoid or minimize potential damage from seismic shaking, the proposed residential development shall be built using standard engineering and seismic safety design techniques. Prior to issuance of building permits, building design and construction at the site shall be completed

in conformance with the recommendations of a design-level geotechnical investigation, which shall be included in a report to the City. The structural designs for the proposed development will account for repeatable horizontal ground accelerations. The report shall be reviewed and approved by the City of Morgan Hill Building Division prior to issuance of a building permit. The buildings shall be required to meet the requirements of applicable Building and Fire Codes, including the California Building Code Chapter 16, Section 1613, as adopted or updated by the City. The project will be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property to the extent feasible and in compliance with the Building Code.

ENGINEERING DIVISION

Project Specific

A. Streets:

- 1. Mission View Drive:**
 - a. For the future realignment of Mission View per the General Plan and circulation element, the needed street right-of-way dedication shall be granted to City as shown on sheet PA-11 of the preliminary submittal.**

B. Stormwater Management, Drainage, and Flood Control:

- 1. The MADRONE CHANNEL 2D FLOODPLAIN STUDY**, dated July 2022, jointly prepared by Akel Engineering Group, Inc. and Kasraie Consulting for the City of Morgan Hill and Valley Water was completed to determine the available 100-year flow capacity in the Madrone Channel. A summary of the floodplain study was documented in a separate Technical Memo by AKEL ENGINEERING titled “Proposed New 42” Storm Drain Outfall at Half Road”, dated December 16, 2022. The Technical Memo included recommendations to the City on how to manage the remaining 100-year flow capacity in the Madrone Channel among developments north of Half Road, which includes the Crosswinds Project. The Crosswinds Project will need to update plans, calculations, and reports to be consistent with the Flood Study and Technical Memo. The Technical Memo was previously provided to the Crosswinds developer.
- 2. Flood Facility Sizing:**
 - a. The minimum required volume for the on-site detention facility(ies) shall be designed to hold the 25-year, 24-hour design storm event with an additional 25% detention basin volume for freeboard.**
 - b. The 25-year, 24-hour design storm event is 5.24” rainfall if the downstream conveyance is capable of conveying excess flow up to the 100-year, 24-hour of 6.50” rainfall design storm. The design storm is based on Table 3.4 “Hydrology and Hydraulics Design Criteria for Ponding Basins” of the City’s 2018 Storm Drainage System Master Plan.**

- c. Release into the new public storm main along Half Road cannot exceed the flow rate, per the Technical Memo stated under Comment no. B.1. Note that the Crosswinds Project shall submit flow calculations for the 100-year storm event where the 100-year post-development flow does not exceed the project's Madrone Channel capacity allotment of 13.4 cfs.
- 3. **Stormwater Management:**
 - a. This project shall comply with the California Regional Water Quality Control Board Central Coast Region Resolution No. R3-2013-0032 as documented by the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements. Following the approval of the SD and SR application, these conditions for Stormwater Management shall be addressed on the Preliminary Post-Construction Stormwater Control Plan prior to submitting for the Building Permits and Final Map approval applications.
 - b. If the project is proposing underground infiltration systems (such as pre-manufactured vaults and modular structures), submit a geotechnical report/soils assessment of the proposed underground infiltration systems that shall include the following to confirm the underground infiltration systems comply with the post-construction requirements:
 - i. Statement of whether the site is suitable for the proposed underground infiltration system;
 - ii. Site-specific soil infiltration rates for each area of the site at the depths (i.e., at the base of the facility) where the underground infiltration systems are proposed;
 - iii. Field boring/test pit logs;
 - iv. Information about any surface or subsurface soil contamination at the site;
 - v. Identification of seasonally high depth to groundwater table surface elevation; and
 - vi. Identification of potential impacts to nearby structural foundations.
 - c. If underground infiltration systems are proposed, the project shall also demonstrate compliance with the following design criteria for the underground infiltration system:
 - i. Minimum soil infiltration rate: 1.0 inch per hour after applying a safety factor of 2, as initially determined from field-measured soil infiltration test. If the site-specific soil infiltration rate is less than 1.0 inch per hour after applying a safety factor of 2, a hydraulic modeling and calculation was provided showing the drawdown time for the system is no longer than 48 hours;
 - ii. Contributing drainage area to each of the underground infiltration systems is less than 5 acres (217,800 sq. ft.);
 - iii. Meets the Santa Clara Valley Water District's Guidelines for Stormwater Infiltration Devices (see page 25 of the *Stormwater Management Guidance Manual for Low Impact Development & Post-Construction Requirements*) that include the following:

- (a) Required horizontal setbacks from drinking water wells, septic systems, underground storage tanks and known contamination sites;
 - (b) Required vertical separation from seasonally high groundwater; and
 - (c) Provides pretreatment prior to infiltration.
 - iv. Minimum 10' horizontal distance from a building or structural foundation unless a wider distance is recommended by the project's Geotechnical/Soils Engineer.
 - v. Minimum 10' horizontal distance to any adjacent property line.
 - vi. Minimum distance from slopes greater than 15% as recommended by the project's Geotechnical/Soils Engineer; and
 - vii. Proposed underground infiltration system will not produce infiltrating water that contains a pollutant that will be discharged to a nearby waterway/surface water impaired for that pollutant.
- C. **Water:** Onsite water system shall be privately maintained.
1. Private submeters to be located or banked in accessible locations similar to public meters, to be accessible to renter/owner, HOA, city staff, and County Weights and Measures.
- D. **Broadband Connectivity:** Indicate on the plans that broadband conduits will be provided along all public frontages (Mission View Drive, Half Road, and De Paul Drive).
- E. **Transportation:** Pursuant to the project's EIR, the developer shall comply with the following:
1. Transit Facilities: Prior to occupancy of each unit, developer shall pay a fair share contribution toward the installation of a southbound bus stop, including street lighting, landscaping, and a new passenger pad, after the main entrance on Mission View Drive.
 2. Cochrane Road and Mission View Drive: Prior to occupancy of each unit, developer shall pay a fair share contribution toward the installation of a second northbound left-turn lane on Mission View Drive and a cycle length adjustment to improve intersection operations. The addition of the second northbound left-turn lane will require lane striping and signal modification but will fit within the existing curb-to-curb pavement width on Mission View Drive. The cost to install the required traffic signal modification, improvements, and striping required for the addition of the second left-turn lane shall be reimbursed to the developer, by agreement or credits, and shall be issued on a per unit basis through the traffic impact fees to be determined by the Public Services Director or Director's designee at improvement plan stage.
 3. Mission View Drive and Half Road: Prior to occupancy of each unit, developer shall pay a fair share contribution toward the installation of a signal at the Mission View Drive and Half Road intersection.

4. **Main Avenue and Condit Road:** Prior to occupancy of each unit, developer shall pay a fair share contribution toward the addition of an exclusive southbound right-turn lane on Condit Road. The addition of the right-turn lane will require signal modifications and lane striping on the southbound approach.
 5. **Condit Road and Diana Avenue:** Prior to occupancy of each unit, developer shall pay a fair share contribution toward the installation of a signal at the Condit Road and Diana Avenue intersection.
- F. Parkland Dedication/Parkland Fee In-Lieu:** This project is subject to the Parkland Dedication and Parkland Fee In-Lieu requirements (**MHMC 17.28**).
1. The developer shall pay fees, in-lieu of parkland dedication, at the time of filing of the project's final map to meet the parkland obligation. The project's parkland obligation will be calculated using the formula shown in MHMC Section 17.28.060.
 2. Private recreation credits, which could allow a credit of up to 40% towards the parkland obligation, could be available for private open space(s) within the subdivision that meets the standard requirements listed in MHMC Section 17.28.130.
- G. Final or Parcel Map:** The project's tract/final map shall be approved by the City Council prior to issuance of a grading permit. (**MHMC 17.20.390; 17.24.210**)
- H. Reciprocal Access:** Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved. (**MHMC 17.20.350 H**)
- I. Stormwater Management:** The project is proposing a land use that is considered a priority by the City to implement trash full capture. At improvement plan/building permit stage, the project shall include the installation of a trash full capture system(s) from a list of certified trash full capture systems by the State Water Resources Control Board. The list of certified trash full capture systems can be viewed from the Water Board's webpage at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/trash_implementation/2022/fullcpre-availabletopublic10-11.pdf
- J. Water:**
1. Project shall grid private water from Mission View Drive to De Paul Drive with Phase 1 for pressure redundancy.
 2. Install public master meters at two locations: Mission View Drive and De Paul Drive with Phase 1.
 3. All new water main installations (public and private) shall adhere to the separation criteria established by the California Waterworks Standards

(California Code of Regulations (CCR), Title 22, Division 4, Chapter 16, Section 64572). Any proposal for alternative compliance to these requirements shall be submitted to the State Water Resources Control Board' Division of Drinking Water, pursuant to CCR, Title 22, Section 64551.100.

- K. **Private Sanitary Sewer Maintenance Agreement:** Prior to final map approval/building permit issuance, the Owner(s) shall enter into a Private Sanitary Sewer Maintenance Agreement with the City for maintenance of all private sanitary sewer facilities which includes the private sewer mains, and sewer laterals. The Agreement shall be recorded at the County Recorder's Office prior to building final.
- L. **Reimbursement:** Prior to final map approval, the project shall pay reimbursement fees for the actual costs of the following improvements to be constructed by the Redwood Tech Industrial Development and which will benefit the Crosswinds Project (refer to Subsequent Development Reimbursement Agreement executed on October 26, 2022 by the City and Redwood Tech developer):
 1. De Paul Drive Improvements (*Maximum Reimbursable Amount = \$473,591*): Half of cost of new wet utilities (water and storm) along Crosswinds' property frontage.
 2. Sanitary Sewer Main Extension (*Maximum Reimbursable Amount = \$785,301*): 55% Cost-share cost (per sewer cost allocation between the Redwood Tech Project and Crosswinds Project) of total estimated sewer extension cost, less the cost to upsize entire length of sanitary sewer main extension from 8" (developers' responsibility) to 10".
- M. At improvement plan/building permit stage, the developer shall submit the offsite improvement plans to Valley Water for review of the proposed improvements that may impact the existing Valley Water groundwater recharge pipeline along Half Road.

GENERAL

- A. **Final Map:** The applicant shall have a Final Map prepared by a registered engineer (licensed prior to 01/01/1982: registration number 33,965 or lower) or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be set as required by the City Engineer. (**MHMC 17.20.200 A; 17.20.290; 17.24.010**)
- B. **Public and Private Improvements:** The applicant shall cause the construction of all public and private improvements in accordance with the latest City

Standard Drawings and Specifications. (MHMC 12.02.090 A; 17.32.010 A)

- C. **Improvement Drawings:** The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the City Engineer prior to submittal of Final Map. (MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)
 - 1. Improvement plans shall show water lines, sanitary sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- D. **Encroachment Permits:** Obtain necessary encroachment permits from the City of Morgan Hill and provide guarantee covering off-site improvements. (MHMC 12.08.040 A; 12.08.090)
- E. **Subdivision Improvement Agreement:** Enter into a Subdivision Improvement Agreement (SIA) with the City of Morgan Hill to cover required improvements. (MHMC 12.02.150; 17.32.010 B; 17.32.160)
- F. **Impact Fee Increase:** The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established impact fees to finance the cost of improvements required by new development. City Code Chapter 3.56.050 provides for automatic annual (July 1st) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. The City maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours. (MHMC 3.56.010; 3.56.030; 3.56.050)
 - 1. The developer shall pay all applicable impact fees and other engineering review fees prior to building permit issuance and at building final. The fees shall be based on the Public Works Fee Schedule prepared by Land Development Engineering.
 - 2. The project will be subject to the updated Water Capacity fees, which become effective May 15, 2023. Information related to the City's impact and development fees are available on the City's Finance Department webpage at: <https://www.morganhill.ca.gov/1572/Fee-Schedules>.

STREET IMPROVEMENTS

- A. **Public and Private Streets:** The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the City Engineer. All street improvements shall be constructed to the

satisfaction of the City Engineer. The timing of the improvements will be determined by the City. (MHMC 12.02.010; 12.02.090; 17.32.060 B; CMH General Plan; CMH Design Standards and Standard Details for Construction)

- B. **Installation and Dedication of Streets:** The project shall install and dedicate street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting in conformance with City of Morgan Hill requirements. (MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010; 17.32.060)
- C. **Underground existing utilities:** All existing overhead utilities adjacent to any site boundary or along any street frontage of site shall be placed underground in accordance with City standards and affected utility company guidelines. (MHMC 12.02.090 B; 17.32.020 E.1)
- D. **Street Trees:** The proposed street trees shall comply with the street tree species and spacing listed under the applicable zone in the Master Street Tree List of the City's Master Street Tree Plan.

SANITARY SEWER SYSTEM

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

STORM DRAIN SYSTEM

- A. **Storm Drainage Study:** A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the City Engineer. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. (MHMC 17.32.020 B; 17.32.090; CMH Design Standards and Standard Details for Construction)

- B. **Storm Drainage Design:** The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Design Review plans. All storm drain improvements shall be constructed to the satisfaction of the City Engineer. (**MHMC 17.32.020 A & B**)
- C. **Storm Drainage Capacity:** Collection system shall be designed to be capable of handling a 10-year storm without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity. Streets shall be designed to carry 100-year storm. Items of construction shall include, but not be limited to installation of storm line extension on proposed public street(s), surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. Note: the project may be required to retain stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows. (**MHMC 17.32.020 B; 18.74.440; CMH Design Standards and Standard Details for Construction; CMH Storm Drainage System Master Plan**)
- D. **Storm Drainage General Requirements:** Prior to final map approval or issuance of a grading permit, the applicant shall complete the following to the satisfaction of the City Engineer.
1. Storm drain calculations to determine detention/retention pond sizing and operations.
 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
 3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.
- (CMH Design Standards and Standard Details for Construction)**
- E. **NPDES Construction Activity General Permit/SWPPP Requirements:** As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction->

[handbookportal-initial-subscription.aspx](#) and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number to be issued to the construction site after the SWRCB receives and verifies the submitted ONLINE NOI information. The WDID number and approved SWPPP Manual shall be provided to Public Works and the Building Department prior to any approval of grading activities (SWRCB NPDES General Permit CA000002).

F. NPDES General Permit/Site SWPPP Inspections and Compliance:

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

G. Reduce construction-related water quality impacts: The following measures shall be included in the project to reduce construction-related water quality impacts to a less than significant level. The measures shall be implemented to the satisfaction of the Director of Development Services or Director's designee. The BMPs shall be approved by the Director of Development Services or Director's designee prior to the issuance of a grading permit.

The following BMPs shall be implemented during project construction:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks will be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction site shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.

WATER SYSTEM

- A. **Water well abandonment:** Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD) Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.
- B. **Water Master Meter:** All residential units are being served by two (2) master public meter(s) and shall be privately sub-metered as allowed pursuant to Section 13.04.130.C of the Morgan Hill Municipal Code. The owner may, upon compliance with the following, install separate private submeters to each residential unit:
1. The owner shall obtain approval/permit from the Public Works Department for the submeter system.
 - a. Any submeters shall accurately and completely measure all water consumed from the municipal water system.
 - b. The owner shall agree to charge the tenant of each unit a water utility charge strictly based on the consumption by the occupants of the unit.
 - c. Installation, maintenance and monitoring of the submeter system shall be the responsibility of the owner, and in no circumstances shall the city be responsible.
 - d. If any water conservation plan is implemented or imposed by the city, the owner shall be responsible for complying with any reductions required by such plan as measured by consumption on the meter(s) directly connected to the municipal water system.

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

OTHER CONDITIONS

- A. **Easement Dedications:** The owner shall dedicate all necessary utility easements. **(MHMC 12.02.080 D; 17.28.010 A)**
- B. **Undergrounding new utilities:** The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the City Engineer. **(MHMC 17.32.020 E.1)**
- C. **Landscaping and Irrigation Systems:** Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the property owner or designated maintenance entity.
- D. **Final Landscape Plans:** Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**
- E. **Pre-construction Meeting:** Prior to the approval of any Building Permit for grading activity, the developer shall schedule a pre-construction meeting with the Public Works Inspection Division with the following project team members:
 1. Civil Engineer of record
 2. Geotechnical Engineer of record
 3. Third Party QSD/QSP SWPPP Inspector
 4. General Contractor
 5. Sub-Contractors
- F. **As-Built Submittal Standards:** The developer shall submit digital as-builts of the project's Final Map, Grading Plan, and Improvement Plans which adhere to the City's updated GIS/CAD Developer Submittal Standards.

NPDES WATER QUALITY STORMWATER MANAGEMENT DEVELOPMENT STANDARDS

- A. **Stormwater Post Construction Requirements (PCRs):** Project shall comply with the California Regional Water Quality Control Board Central Coast Region Resolution No. R3-2013-0032 as documented by the **Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements** (developed from Resolution No. R-2013-0032 Attachment 1 and 2 at:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hydmmod_charette_index.shtml). A copy of the guidance manual can be obtained through the Land Development Engineering webpage. Project shall provide Stormwater Runoff Management Plan, Stormwater Control Plan Checklist and applicable calculations per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements. Project shall meet the applicable requirements of the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements:

1. Performance Requirement 1: Site Design and Runoff Reduction
2. Performance Requirement 2: Water Quality Treatment
3. Performance Requirement 3: Runoff Retention
4. Performance Requirement 4: Peak Management

- B. **Peak Storm Water Runoff Discharge Rates** - Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion. Note: the project may be required to retain stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows.
- C. **Storm Drain System Stenciling and Signage:** All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: "NO DUMPING – DRAINS TO CREEK") and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area. Legibility of stencils and signs must be maintained.
- D. **Trash Enclosure Areas:** In addition to compliance with the requirements under Municipal Code Section 18.92.155 (Refuse and Recycling Enclosures), all trash enclosure areas must meet the following Structural or Treatment Control BMP requirements:
1. **Roof Required:** Trash enclosure areas shall have an all-weather noncombustible solid roof to prevent rainwater from mixing with the enclosure's contents.
 2. **Walls Required:** Trash enclosure shall have structural walls to prevent unauthorized off-site transport of trash.

3. Doors: Trash enclosure shall have door(s) which can be secured when closed.
4. Grades: The pad for the enclosure shall be designed to not drain outward, and the grade surrounding the enclosure shall be designed to not drain into the enclosure.
5. Drain Inlet: Within the enclosure, an area drain with an approved (Zurn) vandal proof drain shall be installed and shall be plumbed to the sanitary sewer system with grease trap. Grease trap shall be located within the trash enclosure footprint.

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

1. Volumetric Treatment Control BMP
 - a. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or
 - b. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or
 - c. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for “treatment” that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.
2. Flow Based Treatment Control BMP
 - a. The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area; or
 - b. The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.

F. Inlets and Riser Pipes for Underground Stormwater Infiltration and Storage Facilities: If proposed with the project, underground stormwater infiltration and storage facilities shall include adequate inlets and/or risers for visual inspection, maintenance and as flush ports.

G. Stormwater Runoff Management Plan (SWRMP): The stormwater runoff management plan shall include sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and

acceptability of measures (post construction BMPs) proposed for managing stormwater runoff.

1. The stormwater runoff management plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved stormwater runoff management plan.
2. The developer shall provide a signed certification from the civil engineer responsible for preparing the Stormwater Runoff Management Plan that all stormwater best management practices have been designed to meet the requirements of this chapter.

H. Stormwater BMP operation, maintenance, and replacement responsibility

1. Prior to building final, the property owner shall submit a signed certification (with signature, date & license number/seal) certifying that all post-construction stormwater management/BMP facilities shown on the as-built drawings were inspected by the civil engineer (or by a qualified third party stormwater inspector hired by the permittee/owner) and have been constructed in accordance with the approved plans and specifications.
2. All on-site stormwater management facilities shall be operated and maintained in good condition and promptly repaired/replaced by the property owner(s), an owners' or homeowners' association or other legal entity approved by the city.
3. Any repairs or restoration/replacement and maintenance shall be in accordance with city-approved plans.
4. The property owner(s) shall develop a maintenance schedule for the life of any stormwater management facility and shall describe the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be included with the approved stormwater runoff management plan.

I. Stormwater BMP operation and Maintenance Agreement (SWBOMA): Prior to the issuance of any building permit requiring stormwater management BMPs, the owner(s) of the site shall enter into a formal written Stormwater BMP Operation and Maintenance Agreement with the City. The City shall record this agreement, against the property or properties involved, with the County of Santa Clara and it shall be binding on all subsequent owners of land served by the storm water management BMPs. The City standard Stormwater BMP Operation and Maintenance Agreement will be provided by Land Development Engineering at building permit/improvement plan stage.

J. Stormwater BMP inspection responsibility

1. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a certified

- Qualified Stormwater Practitioner (QSP).**
2. Unless otherwise required by the City Engineer or designee, stormwater facility inspections shall be done at least twice per year (April 15th and September 15th) by the QSP. Written records shall be kept of all inspections and shall include, at minimum, the following information:
- a. Site address;
 - b. Date and time of inspection;
 - c. Name of the person conducting the inspection;
 - d. List of stormwater facilities inspected;
 - e. Condition of each stormwater facility inspected;
 - f. Description of any needed maintenance or repairs; and
 - g. As applicable, the need for site re-inspection.
3. Upon completion of each inspection, an inspection report shall be submitted to Land Development Engineering.
- K. **Records of maintenance and inspection activities:** On or before April 15th and September 15th of each year, the party responsible for the operation and maintenance of on-site stormwater management facilities under the BMP operation and maintenance agreement shall provide the chief engineer or designee with records of all inspections, maintenance and repairs.
- L. **Annual Certification of SWRMP –** On or before September 30th of each year a Registered Civil Engineer (RCE) shall provide written certification that the developments stormwater quality design standards are properly maintained and functioning as required by the SWRMP.

BUILDING DIVISION

- A. **California Code of Regulations:** Project shall be designed to comply with the edition of the California Codes of Regulations as amended by the Morgan Hill Municipal Code Title 15 that is in effect at time of Building Permit Application submittal.
- B. **Compliance with Morgan Hill Municipal Code:** Project shall comply with the Morgan Hill Municipal Code (MHMC) including but not limited to:
1. MHMC 15.65 Sustainable Building Regulations.
 2. MHMC 18.72.040 C. Electric Vehicle Charging.
 3. MHMC 15.40 Building Security
 4. MHMC 15.38 Wage Theft Preventions
 5. MHMC 18.148 Water Conservation
 6. MHMC 15.63 Prohibition of Natural Gas Infrastructure in New Buildings (Applies to all Building Permit Applications Received on or after March 1, 2020)

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

FIRE DIVISION

- A. **Fire Prevention Division Standard Details and Specifications:** Project shall conform to the minimum requirements of The City of Morgan Hill's Fire Prevention Division Standard Details and Specifications: <https://www.morganhill.ca.gov/DocumentCenter/View/10668/Fire-Details-and-Specs?bidId=>.
- B. **Automatic Fire Sprinkler System Required:** Provide proposed fire sprinkler design standard for the R2 and R3 occupancy types. **(CFC Chapter 9 as amended by MHMC 15.44.170)**

HOUSING DIVISION

- A. **Inclusionary Housing Agreement:** The developer shall execute and record an Inclusionary Affordable Housing Agreement with the City prior to issuance of a building permit. **(MHMC 14.04.050)**

All new for-sale Residential Projects consisting of two (2) or more Dwelling Units located within the City but outside of Downtown are required to restrict fifteen percent (15%) of the Dwelling Units for sale at Affordable Sales Prices to Moderate-Income Households. See ordinance and amendment for more specific Inclusionary requirements. Project consists of 269 units. $269 \times 15\% = 40.35$ BMR units. Project will build 40 BMR units and pay .35 fractional fee. Fractional Fee shall be paid prior to issuance of building permits for Market-Rate units in a Residential Project.

All Inclusionary Units shall be reasonably dispersed throughout the Residential Project. City staff request the following BMR unit placement as "reasonably dispersed" to be as follows per sheet T1.3 submitted 8/28/20:

- Total project units = 269/100%
- Total SFD = 56/21% of total project = 8 BMR's/21% of project
- Total Attached Duets = 64/24% of total project = 10 BMR's/24% of project
- Total Townhomes = 149/55% of total project = 22 BMR's/55% of project

- B. **BMR Standards:** The Below Market Rate (BMR) units shall comply with the BMR standards.

BMR standards:

1. Location. BMR units shall be distributed evenly throughout the project.
2. Lot Size. Lot size shall be at least the same size as the smallest lot of a market rate unit within the project;
3. Bedroom Count. Average bedroom count shall be the same as the average bedroom count in the market rate units in the project;
4. Exterior. Exterior trim entry door hardware, and finish to the same standard as the Market Rate
5. Minimum standards for equipment, fixtures, appliances and finishes have been established for the BMR units. All items installed by the developer shall be of good quality and in new condition. Good quality shall be deemed as entry level but generally not the lowest level of product offered for that application. All products shall offer durability, reliability and maintain a quality appearance and function that is standard to most other median priced homes in the area. The below listed items must be installed as a basic feature of each BMR home.
6. Minimum Interior standard finishes will be as follows:
 - a. All closets shall have doors
 - b. Interior doors to be raised panel type or same as market rate
 - c. Door hardware to be brass finish or equivalent
 - d. Appliances shall be major brand name
 - e. Microwave with an exhaust vent shall be installed over the range
 - f. Kitchen counters shall be white ceramic tile
 - g. Kitchen cabinets shall be stained wood with white melamine interiors
 - h. Units will be roughed in for AC including electrical and line set. If installation of an Air Conditioner is a standard feature for market rate units, then it is a standard for the BMR units.
 - i. Basic alarm system to secure all accessible openings to the home
 - j. Carpet in bedrooms, hallways, family rooms
 - k. Linoleum or tile entry, bathroom kitchens
 - l. Laminate flooring may substitute for carpet or linoleum
 - m. Electric garage door opener
7. Timing of Construction. BMR units shall be constructed in proportion to the BMR ownership housing requirement applicable to the project. For example, for a 40-unit project with an 15% BMR ownership housing commitment (6 BMR's), at least one BMR unit shall be constructed before or concurrently with every 6th market rate unit constructed. The last market rate unit to be completed in the project may not receive a certificate of occupancy until the last BMR unit has received a certificate of occupancy. The Director may approve a modified schedule if the timing requirement will create unreasonable delays in the issuance of

certificates of occupancy for market rate units.

Resolution 23-04 and 23-05

Final Audit Report

2023-05-31

Created:	2023-05-30
By:	Jenna Luna (jenna.luna@morganhill.ca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA00irMToPz__hsz27UACgIIE1zZZMPcTz

"Resolution 23-04 and 23-05" History

- ✉ Document created by Jenna Luna (jenna.luna@morganhill.ca.gov)
2023-05-30 - 11:48:06 PM GMT
- ✉ Document emailed to joseph.mueller@morganhill.ca.gov for signature
2023-05-30 - 11:49:36 PM GMT
- ✉ Email viewed by joseph.mueller@morganhill.ca.gov
2023-05-31 - 6:00:05 PM GMT
- ✍ Signer joseph.mueller@morganhill.ca.gov entered name at signing as Joseph Mueller
2023-05-31 - 6:06:25 PM GMT
- ✍ Document e-signed by Joseph Mueller (joseph.mueller@morganhill.ca.gov)
Signature Date: 2023-05-31 - 6:06:27 PM GMT - Time Source: server
- ✓ Agreement completed.
2023-05-31 - 6:06:27 PM GMT



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