



Regular Meeting Agenda
Planning Commission

Juan Miguel Munoz-Morris - Chairman
Mohammad Habib - Vice Chairman
Joseph Mueller - Planning Commissioner
Wayne Tanda - Planning Commissioner
Laura Gonzalez-Escoto - Planning Commissioner
Malisha Kumar - Planning Commissioner
Liam Downey - Planning Commissioner

Tuesday, October 22, 2019 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

CALL TO ORDER

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

Pursuant to Government Code Section 54954.2

PLEDGE OF ALLEGIANCE

OPEN PUBLIC COMMENT PERIOD

Members of the public are entitled to address the Planning Commission concerning any item within the Morgan Hill Planning Commission's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the Planning Commission is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

ORDERS OF THE DAY

CONSENT AGENDA

1. APPROVE THE SEPTEMBER 10, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

2. APPROVE THE SEPTEMBER 24, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

3. APPROVE THE OCTOBER 8, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

4. APPROVE THE OCTOBER 15, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

CONTINUED PUBLIC HEARING

5. SR2019-0029 DEPAUL - TC MORGAN HILL VENTURES: PRELIMINARY PLAN REVIEW FOR A PROPOSED PLANNED DEVELOPMENT COMMERCIAL AND INDUSTRIAL PROJECT ALSO REFERRED TO AS THE MORGAN HILL TECHNOLOGY PARK (TRAMMELL CROW).

Recommendation:

Open/close the continued public hearing to allow the Planning Commission to provide preliminary comments on the proposed Planned Development.

6. SD2018-0006, DA2018-0003, EA2018-0023, ZA2019-0006: DIANA - MANA HANA LEI PROJECT (MONTECITO ESTATES) - SUBDIVISION MAP, DEVELOPMENT AGREEMENT, ENVIRONMENTAL ASSESSMENT, AND ZONING AMENDMENT FOR PROPERTY IDENTIFIED BY ASSESSOR PARCEL NUMBERS 726-09-001 AND 726-09-002 LOCATED AT 815 DIANA AVENUE AT THE NORTHWEST CORNER OF DIANA AVENUE AND LOTUS WAY.

Recommendation:

1. Open/close the continued public hearing;
2. Adopt a Resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project;
3. Adopt a Resolution approving a Tentative Subdivision Map;
4. Adopt a Resolution recommending the City Council approve a Zoning Amendment for a Planned Development Combining District; and
5. Adopt a Resolution recommending the City Council approve a Development Agreement.

PUBLIC HEARINGS

7. **ZA2019-0013- ZONING TEXT AMENDMENT AMENDING SECTION 18.92.030 OF CHAPTER 18.92 SUPPLEMENTAL STANDARDS OF TITLE 18 ZONING OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING THE SEPARATION BETWEEN CONVENIENCE MARKETS.**

Recommendation:

1. Open/close public hearing; and
2. Continue the public hearing to the November 12, 2019 Planning Commission meeting.

DIRECTOR'S REPORT/ANNOUNCEMENTS

ADJOURNMENT

NOTICE

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the legislative body less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the legislative body. (Pursuant to Government Code 54957.5)

PUBLIC COMMENT

Members of the Public are entitled to directly address the Commission concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Commission on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Commission Chambers, and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Commission, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the Commission on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the Commission.

Persons interested in proposing an item for the Commission agenda should contact a member of the Commission who may plan an item on the agenda for a future Commission meeting. Should your comments require Commission action, your request may be placed on the next appropriate agenda. Commission discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the Commission at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the Commission, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of Commission Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email cityclerk@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email cityclerk@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.

DRAFT



Meeting Minutes Planning Commission

Juan Miguel Munoz-Morris - *Chairman*
Mohammad Habib - *Vice Chairman*
Joseph Mueller - *Planning Commissioner*
Wayne Tanda - *Planning Commissioner*
Laura Gonzalez-Escoto - *Planning Commissioner*
Malisha Kumar - *Planning Commissioner*
Liam Downey - *Planning Commissioner*

Tuesday, September 10, 2019 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

CALL TO ORDER

Chair Munoz-Morris called the meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Attendee Name	Title	Status	Arrived
Juan Miguel Munoz-Morris	Chairman	Present	
Mohammad Habib	Vice Chairman	Present	
Joseph Mueller	Planning Commissioner	Present	
Wayne Tanda	Planning Commissioner	Present	
Laura Gonzalez-Escoto	Planning Commissioner	Present	
Malisha Kumar	Planning Commissioner	Present	
Liam Downey	Planning Commissioner	Present	

DECLARATION OF POSTING AGENDA

Minutes Clerk Luna declared the posting of the Agenda.

PLEDGE OF ALLEGIANCE

Planning Commissioner Habib led the Pledge of Allegiance.

Minutes Acceptance: Minutes of Sep 10, 2019 7:00 PM (CONSENT AGENDA)

OPEN PUBLIC COMMENT PERIOD

Chair Munoz-Morris opened the Public Comment Period at 7:03 p.m. The following individual addressed the Planning Commission:

- Joe Baranowski

Hearing no further requests to speak, the Public Comment Period was closed at 7:06 p.m.

ORDERS OF THE DAY

No Changes made.

PUBLIC HEARINGS

1. **UP2018-0011: MADRONE - CARPENTERS TRAINING CENTER: CONDITIONAL USE PERMIT FOR A 55,000 SQUARE FOOT CARPENTERS TRAINING CENTER PROPOSED TO BE CONSTRUCTED AT 18640 MADRONE PARKWAY. THE PROPERTY, IDENTIFIED BY ASSESSOR PARCEL NUMBER 726-35-028, IS LOCATED ON THE NORTH SIDE OF MADRONE PARKWAY, NORTH OF LIGHTPOST WAY.**

Recommendation:

1. Open/close Public Hearing; and
2. Approve a Mitigated Negative Declaration; and
3. Adopt a Resolution approving a Conditional Use Permit for a trade school use.

Principal Planner Gina Paolini presented the Staff Report at 7:07 p.m.

Chair Munoz-Morris opened the Public Hearing at 7:09 p.m. The following individuals addressed the Planning Commission:

- David Crawford
- Phil Hogan
- Amber Sharp

Hearing no further requests to speak, the Public Hearing was closed at 7:25 p.m.

MOTION:

Adopt a resolution approving the Conditional Use Permit with a modification to the language in Exhibit A that states: Any outdoor "Construction" type activities/training should be conducted during the allowable hours as per the City Building Code.

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Liam Downey, Planning Commissioner
SECONDER:	Laura Gonzalez-Escoto, Planning Commissioner
AYES:	Munoz-Morris, Habib, Mueller, Tanda, Gonzalez-Escoto, Kumar, Downey

2. **DEPOT – LATALA: TENTATIVE MAP AND DESIGN REVIEW PERMIT TO ALLOW FOR THE CONSTRUCTION OF 49 RESIDENTIAL UNITS WITH 3,076 SQUARE FOOT OFFICE SPACE IN CONJUNCTION WITH THE REALIGNMENT OF DEPOT STREET TO CHURCH STREET. THE PROPERTIES, IDENTIFIED BY ASSESSOR PARCEL NUMBER(S) 726-13-049 AND 726-13-052, ARE LOCATED ON THE EAST SIDE OF DEPOT STREET BETWEEN FIFTH STREET AND EAST DUNNE AVENUE AND THE COMMUNITY AND CULTURAL CENTER PARKING LOT (SD2018-0007/SR2019-0003/EA2018-0013).**

Recommendation:

1. Open/close the public hearing;
2. Adopt a Resolution approving a Tentative Map for a 49-unit subdivision; and
3. Adopt a Resolution recommending approval of the Design Review Permit for a Mixed-Use Development.

Associate Planner Tiffany Brown presented the Staff Report at 7:42 p.m.

The meeting recessed at 8:58 p.m. The meeting reconvened at 8:08 p.m.

Chair Munoz-Morris opened the Public Hearing at 8:47 p.m. The following individuals addressed the Planning Commission:

- Paul Latala
- Ron Rzesniowiecki

Hearing no further requests to speak, the Public Hearing was closed at 9:13 p.m.

MOTION:

Adopt a resolution approving the Tentative Subdivision Map.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Wayne Tanda, Planning Commissioner
SECONDER:	Liam Downey, Planning Commissioner
AYES:	Munoz-Morris, Habib, Mueller, Tanda, Gonzalez-Escoto, Kumar, Downey

MOTION:

Adopt a resolution recommending City Council approve the Design Review Permit.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Wayne Tanda, Planning Commissioner
SECONDER:	Laura Gonzalez-Escoto, Planning Commissioner
AYES:	Munoz-Morris, Habib, Mueller, Tanda, Gonzalez-Escoto, Kumar, Downey

DIRECTOR'S REPORT/ANNOUNCEMENTS

The Community Development Director, Jennifer Carman gave the Director's report.

ADJOURNMENT

There being no further business, Chair Munoz-Morris adjourned the meeting at 9:39 p.m.

MINUTES PREPARED BY:

Jenna Luna, Minutes Clerk

DRAFT



Meeting Minutes Planning Commission

Juan Miguel Munoz-Morris - *Chairman*
Mohammad Habib - *Vice Chairman*
Joseph Mueller - *Planning Commissioner*
Wayne Tanda - *Planning Commissioner*
Laura Gonzalez-Escoto - *Planning Commissioner*
Malisha Kumar - *Planning Commissioner*
Liam Downey - *Planning Commissioner*

Tuesday, September 24, 2019 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

CALL TO ORDER

Chair Munoz-Morris called the meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Attendee Name	Title	Status	Arrived
Juan Miguel Munoz-Morris	Chairman	Present	
Mohammad Habib	Vice Chairman	Late	7:04 PM
Joseph Mueller	Planning Commissioner	Present	
Wayne Tanda	Planning Commissioner	Present	
Laura Gonzalez-Escoto	Planning Commissioner	Present	
Malisha Kumar	Planning Commissioner	Present	
Liam Downey	Planning Commissioner	Excused	

DECLARATION OF POSTING AGENDA

Minutes Clerk Luna declared the posting of the Agenda.

PLEDGE OF ALLEGIANCE

Planning Commissioner Kumar led the Pledge of Allegiance.

Minutes Acceptance: Minutes of Sep 24, 2019 7:00 PM (CONSENT AGENDA)

OPEN PUBLIC COMMENT PERIOD

Chair Munoz-Morris opened the public comment period at 7:02 p.m. The following individuals addressed the Planning Commission:

- Joe Baranowski
- Rick Kent

Hearing no further requests to speak, the public comment period was closed.

ORDERS OF THE DAY

No changes made.

MINUTES APPROVAL

1. APPROVE THE AUGUST 13, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Joseph Mueller, Planning Commissioner
SECONDER:	Wayne Tanda, Planning Commissioner
AYES:	Munoz-Morris, Habib, Mueller, Tanda, Gonzalez-Escoto, Kumar
EXCUSED:	Downey

2. APPROVE THE AUGUST 27, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Joseph Mueller, Planning Commissioner
SECONDER:	Laura Gonzalez-Escoto, Planning Commissioner
AYES:	Munoz-Morris, Habib, Mueller, Tanda, Gonzalez-Escoto, Kumar
EXCUSED:	Downey

PUBLIC HEARINGS

None

OTHER BUSINESS

3. DISCUSSION OF 2019 HOUSING LEGISLATION/IMPACTS

Recommendation:

Planning Commission to receive information on the following:

1. 2019 Housing Legislation Update and Impacts to Morgan Hill Housing Development Guidelines and Enforcement,
2. Residential Development Control System, and
3. Development Processing and Work Program

Assistant City Manager for Community Development Leslie Little gave a presentation.

Chair Munoz-Morris opened the Public Comment Period at 8:12 p.m. The following individuals addressed the Planning Commission:

- John Moniz
- Roche Garcia

Hearing no further requests to speak, the public hearing was closed.

MOTION:

No action taken. The Planning received information regarding the 2019 Housing Legislation Update and Impacts to Morgan Hill Development Guidelines and Enforcement, Residential Development Control System, and the Development Processing and Work Program.

RESULT:	NO ACTION TAKEN
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DIRECTOR'S REPORT/ANNOUNCEMENTS

Community Development Director Jennifer Carman gave the report at 9:21 p.m.

ADJOURNMENT

There being no further business, Chair Munoz-Morris adjourned the meeting at 9:25 p.m.

MINUTES PREPARED BY:

Jenna Luna, Minutes Clerk

Minutes Acceptance: Minutes of Sep 24, 2019 7:00 PM (CONSENT AGENDA)

DRAFT



Meeting Minutes Planning Commission

Juan Miguel Munoz-Morris - *Chairman*
Mohammad Habib - *Vice Chairman*
Joseph Mueller - *Planning Commissioner*
Wayne Tanda - *Planning Commissioner*
Laura Gonzalez-Escoto - *Planning Commissioner*
Malisha Kumar - *Planning Commissioner*
Liam Downey - *Planning Commissioner*

Tuesday, October 8, 2019 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

CALL TO ORDER

Chair Munoz-Morris called the meeting to order at 7:01 pm

Community Development Director Jennifer Carman gave a Public Service Message regarding the the PG&E power shutoff event.

ROLL CALL ATTENDANCE

Attendee Name	Title	Status	Arrived
Juan Miguel Munoz-Morris	Chairman	Present	
Mohammad Habib	Vice Chairman	Present	
Joseph Mueller	Planning Commissioner	Present	
Wayne Tanda	Planning Commissioner	Present	
Laura Gonzalez-Escoto	Planning Commissioner	Present	
Malisha Kumar	Planning Commissioner	Present	
Liam Downey	Planning Commissioner	Present	

DECLARATION OF POSTING AGENDA

Minutes Clerk Luna declared the posting of the Agenda at 7:04 p.m.

Minutes Acceptance: Minutes of Oct 8, 2019 7:00 PM (CONSENT AGENDA)

PLEDGE OF ALLEGIANCE

Planning Commissioner Mueller led the Pledge of Allegiance at 7:05 p.m.

OPEN PUBLIC COMMENT PERIOD

Chair Munoz-Morris opened the Public Comment Period at 7:07 p.m. The following individuals addressed the Planning Commission:

- Craig Erb

Hearing no further requests to speak, the Public Comment Period was closed.

ORDERS OF THE DAY

No changes made.

PUBLIC HEARINGS

1. **SD2018-0006, DA2018-0003, EA2018-0023, ZA2019-0006: DIANA - MANA HANA LEI PROJECT (MONTECITO ESTATES) - SUBDIVISION MAP, DEVELOPMENT AGREEMENT, ENVIRONMENTAL ASSESSMENT, AND ZONING AMENDMENT FOR PROPERTY IDENTIFIED BY ASSESSOR PARCEL NUMBERS 726-09-001 AND 726-09-002 LOCATED AT 815 DIANA AVENUE AT THE NORTHWEST CORNER OF DIANA AVENUE AND LOTUS WAY.**

Recommendation:

1. Open/close public hearing; and,
2. Continue the public hearing to the October 22, 2019 Planning Commission meeting.

Chair Munoz - Morris opened the Public Hearing at 7:08 p.m. Hearing no requests to speak the Public Comment Period was closed.

RESULT:	CONTINUED [UNANIMOUS]	Next: 10/22/2019 7:00 PM
MOVER:	Joseph Mueller, Planning Commissioner	
SECONDER:	Liam Downey, Planning Commissioner	
AYES:	Munoz-Morris, Habib, Mueller, Tanda, Gonzalez-Escoto, Kumar, Downey	

2. **UP2018-0015: MONTEREY – VOICES: CONDITIONAL USE PERMIT TO ALLOW A PUBLIC CHARTER SCHOOL ON A PROPERTY IDENTIFIED BY ASSESSOR PARCEL NUMBER 767-17-047 LOCATED AT THE NORTHWESTERN INTERSECTION OF MONTEREY ROAD AND COSMO AVENUE.**

Recommendation:

1. Open/close public hearing;
2. Adopt a Resolution approving the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project; and,
3. Adopt a Resolution approving a Conditional Use Permit for Phase I of the Monterey-Voices public charter school project.

Associate Planner Joey Dinh presented the Staff Report.

Chair Munoz-Morris opened the public comment 7:15 p.m. The following individuals addressed the Planning Commission:

- Vanessa Grant
- Jarod Grant

- Frances Teso
- James Levis
- Juan Carlos Villasenor
- Gail Webb
- Arron Gallardo
- Luis Mendoza
- Maria Castaneda
- Ernesto Gomez
- Carmen Vargas
- Steve Vargas
- Maricela Segura
- Ashley Gonzalez
- Raquel Corona
- Sunny Scott
- Romina Incandela
- Rafael Covarrubias
- Sally Casas
- Alesandro Ortiz Sr.
- Juan Hernadez

Hearing no further requests to speak, the Public Hearing was closed at 8:13 p.m.

Chair Munoz-Morris re-opened the Public Hearing at 8:21 p.m. The following individual addressed the Planning Commission:

- Delia Gomez
- Maria Regalado
- Ana
- Sophie Jaime
- Marcela Martinez

Hearing no further requests to speak, the comment period was closed at 8:36 p.m.

MOTION:

Adopt a resolution approving the Mitigated Negative Declaration.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joseph Mueller, Planning Commissioner
SECONDER:	Laura Gonzalez-Escoto, Planning Commissioner
AYES:	Munoz-Morris, Habib, Mueller, Tanda, Gonzalez-Escoto, Kumar, Downey

MOTION:

Adopt a resolution approving the Conditional Use Permit with the following modifications:

- Section 2c. Events - Onsite extracurricular school events unrelated to instructional or classroom activities such as carnivals or activities that cover a significant portion of the parking lot shall be subject to a Temporary Use Permit until the planning Commission determines that adequate parking has been provided for additional activities.
- Section 2e. Student Population and Hours - Activities related to instructional or classroom activities shall be allowed beyond 6:00 p.m. or until 9:00 p.m.
- Adding Section TRA-6. "Safe Routes to Schools" - program will be prepared and in concert with the City and the improvements identified in that plan shall be installed prior to the opening of the school.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joseph Mueller, Planning Commissioner
SECONDER:	Laura Gonzalez-Escoto, Planning Commissioner
AYES:	Munoz-Morris, Habib, Mueller, Tanda, Gonzalez-Escoto, Kumar, Downey

OTHER BUSINESS

None.

DIRECTOR'S REPORT/ANNOUNCEMENTS

Community Development Director Jennifer Carman gave the Director's Report.

ADJOURNMENT

There being no further business, Chair Munoz-Morris adjourned the meeting at 9:54 p.m.

MINUTES PREPARED BY:

Jenna Luna, Minutes Clerk

Minutes Acceptance: Minutes of Oct 8, 2019 7:00 PM (CONSENT AGENDA)

DRAFT



Meeting Minutes Planning Commission

Juan Miguel Munoz-Morris - *Chairman*
Mohammad Habib - *Vice Chairman*
Joseph Mueller - *Planning Commissioner*
Wayne Tanda - *Planning Commissioner*
Laura Gonzalez-Escoto - *Planning Commissioner*
Malisha Kumar - *Planning Commissioner*
Liam Downey - *Planning Commissioner*

Tuesday, October 15, 2019 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

AMENDED AGENDA

This agenda was amended to indicate the location of the meeting and availability of additional viewing space. The Meeting will be held in the Council Chambers. Community Members will also be able to view the meeting from the West Conference room.

CALL TO ORDER

Chair Munoz-Morris called the meeting to order.

ROLL CALL ATTENDANCE

Attendee Name	Title	Status	Arrived
Juan Miguel Munoz-Morris	Chairman	Present	
Mohammad Habib	Vice Chairman	Present	
Joseph Mueller	Planning Commissioner	Present	
Wayne Tanda	Planning Commissioner	Present	
Laura Gonzalez-Escoto	Planning Commissioner	Present	
Malisha Kumar	Planning Commissioner	Present	
Liam Downey	Planning Commissioner	Present	

DECLARATION OF POSTING AGENDA

Minutes Clerk Luna declared the posting of the Agenda.

PLEDGE OF ALLEGIANCE

Planning Commissioner Downey led the Pledge of Allegiance.

OPEN PUBLIC COMMENT PERIOD

Chair Munoz-Morris opened the Public Comment Period at 7:06 p.m.

ORDERS OF THE DAY

No changes made.

PUBLIC HEARINGS

Assistant City Attorney Cynthia Hasson made an announcement regarding the application before the Planning Commission at 7:07 p.m.

1. SR2019-0029 DEPAUL - TC MORGAN HILL VENTURES: PRELIMINARY PLAN REVIEW FOR A PROPOSED PLANNED DEVELOPMENT COMMERCIAL AND INDUSTRIAL PROJECT ALSO REFERRED TO AS THE MORGAN HILL TECHNOLOGY PARK (TRAMMELL CROW).

Recommendation:

Planning Commission to provide preliminary comments on the proposed Planned Development.

Community Development Director Jennifer Carman presented the staff report at 7:11 p.m.

Chair Muonz-Morris opened the Public Hearing at 7:36 p.m. The following individuals addressed the Planning Commission:

- Will Parker
- Ben Sigman
- Tom Jordy

The meeting recessed at 8:31 p.m. The meeting reconvened at 8:41 p.m.

Chair Monuz-Morris re-opened the Public Hearing at 8:42 p.m. The following individuals addressed the Planning Commission:

- Carol Corsrsy
- Skip Hovston
- Joe Baranowski
- Terry Williams
- Miguel Jimenez
- Susie Jimenez
- Shawnie McLaughlin
- Ernie Tibaldi
- Debra Ullmann
- David Wendt
- Rick Kent
- Allan Abrams
- Robyn Carrillo
- Oscar Carrillo
- Georgia Tassos
- Doug Chloupek

- Javier Eehvarria
- Rachel McMillan
- Max Bushman
- Natasha Wist
- Hussein Aly
- Eve Marie Bay
- Tadan Christopher
- Julie Hutcheson
- Bryan Espirlin
- John Foggiato
- Dan Medeiros
- Israel

Hearing no further requests to speak, the Public Hearing was closed at 10:43 p.m.

The meeting recessed at 10:43 p.m. the meeting reconvened at 10:49 p.m.

MOTION:

Continue this item to the October 22, 2019 Planning Commission Meeting. The Planning Commission requested this item be the first one on the agenda.

RESULT:	CONTINUED [UNANIMOUS]	Next: 10/22/2019 7:00 PM
MOVER:	Joseph Mueller, Planning Commissioner	
SECONDER:	Laura Gonzalez-Escoto, Planning Commissioner	
AYES:	Munoz-Morris, Habib, Mueller, Tanda, Gonzalez-Escoto, Kumar, Downey	

DIRECTOR'S REPORT/ANNOUNCEMENTS

None.

ADJOURNMENT

There being no further business, Chair Munoz-Morris adjourned the meeting at 11:01 p.m.

MINUTES PREPARED BY:

Jenna Luna, Minutes Clerk



PLANNING COMMISSION STAFF REPORT

MEETING DATE: October 22, 2019

PREPARED BY: Jennifer Carman, Community Development Director
 APPROVED BY: Jennifer Carman, Community Development Director

SR2019-0029 DEPAUL - TC MORGAN HILL VENTURES: PRELIMINARY PLAN REVIEW FOR A PROPOSED PLANNED DEVELOPMENT COMMERCIAL AND INDUSTRIAL PROJECT ALSO REFERRED TO AS THE MORGAN HILL TECHNOLOGY PARK (TRAMMELL CROW).

RECOMMENDATION(S)

Open/close the continued public hearing to allow the Planning Commission to provide preliminary comments on the proposed Planned Development.

LOCATION MAP



PROJECT SUMMARY:

1. Location: North side of Half Road, south side of Cochrane Road and west of the southerly extension of DePaul Drive. (APN 728-30-006, -008, -009 and APN 728-31-014, -015 and -016)
2. Site Area: 60.82 Acres
3. General Plan: Commercial (30.08 acres), Commercial Industrial (30.74 acres)
4. Zoning: Planned Unit Development-CH (Highway Commercial) on approximately 12 acres, CO (Administrative Office) on

approximately 18.08 acres and PUD (Light Industrial) on 30.74 acres.

BACKGROUND:

The project was presented to the Planning Commission at a Special Meeting held on October 15, 2019. The Planning Commission received several hours of public comment from concerned residents. Due to the late hour, the Planning Commission continued the public hearing regarding the project until the October 22, 2019 meeting to allow for the applicant rebuttal and Planning Commission discussion. The staff report and all related documents from the October 15, 2019 Planning Commission meeting have been provided.

LINKS/ATTACHMENTS:

1. TC Morgan Hill - October 15, 2019 Staff Report
2. Supporting Statement
3. Existing GP and Zoning Designations
4. Proposed GP and Zoning Designations
5. Proposed Parcel Map
6. CH (Highway Commercial) Proposed Permitted and Conditional Uses
7. IL (Light Industrial) Proposed Permitted and Conditional Uses
8. Building 1: Conceptual Site Plan- Elevations and Renderings (Weblink)
9. Building 2-Conceptual Site Plan-Elevations and Renderings (Weblink)
10. Building 3- Conceptual Renderings (Weblink)
11. Building 3- Conceptual Site Plan and Elevations (Weblink)
12. Conceptual Site and Landscape Plans (Weblink)
13. SubstantialPublicBenefitDefined
- 14.01 Supplement #1- Morgan Hill Technology Park
- 15.01 Supplement #2- Morgan Hill Technology Park
- 16.01 Supplement #3 - TC TECH PARK
- 17.01 Supplement #4 - mhtcTrucks2 (Carrillo)
- 18.01 Supplement #5 - Planning Commission Oct 15 2019 (Baranowski)
- 19.01 Supplement #6 - Planning CommissionMtg -TC (R. Carrillo)



CITY OF MORGAN HILL

PLANNING COMMISSION STAFF REPORT

MEETING DATE: October 15, 2019

PREPARED BY: Jim Rowe, Contract Planner

APPROVED BY: Jennifer Carman, Community Development Director

SR2019-0029 DEPAUL - TC MORGAN HILL VENTURES: PRELIMINARY PLAN REVIEW FOR A PROPOSED PLANNED DEVELOPMENT COMMERCIAL AND INDUSTRIAL PROJECT ALSO REFERRED TO AS THE MORGAN HILL TECHNOLOGY PARK (TRAMMELL CROW).

RECOMMENDATION(S)

Planning Commission to provide preliminary comments on the proposed Planned Development.

LOCATION MAP



PROJECT SUMMARY:

1. Location: North side of Half Road, south side of Cochrane Road and west of the southerly extension of DePaul Drive. (APN 728-30-006, -008, -009 and APN 728-31-014, -015 and -016)
2. Site Area: 60.82 Acres
3. General Plan: Commercial (30.08 acres), Commercial Industrial (30.74 acres)
4. Zoning: Planned Unit Development-CH (Highway Commercial) on approximately 12 acres, CO (Administrative Office) on

approximately 18.08 acres and PUD (Light Industrial) on 30.74 acres.

BACKGROUND:

The PUD overlay for the area was established by City Council Ordinances 1047, N.S and 1521, N.S. The applicant is requesting Preliminary Review prior to consideration of project related General Plan Amendment and Zoning Amendment applications that have been submitted for the site. A project EIR scoping meeting was held on April 23, 2019 and the EIR is being prepared.

Project Description

The proposed project would amend the General Plan Land Use Designation for a portion of the 60.82 acres from Commercial (30.08 acres) to Commercial/Industrial (26.6 acres) and Commercial (2.92 acres fronting Cochrane Road) as shown in the graphic below.

Existing

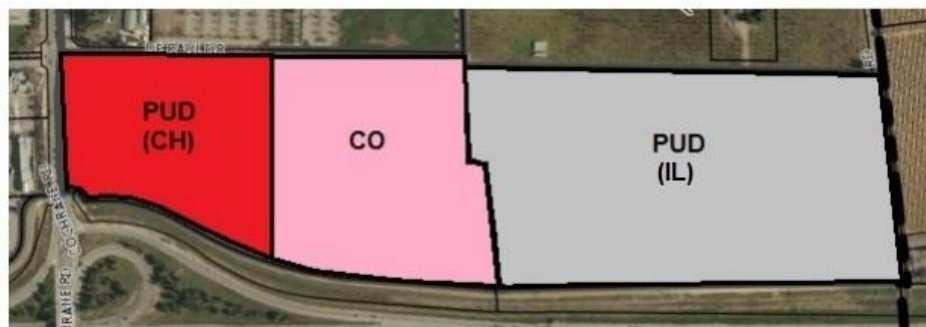


Proposed

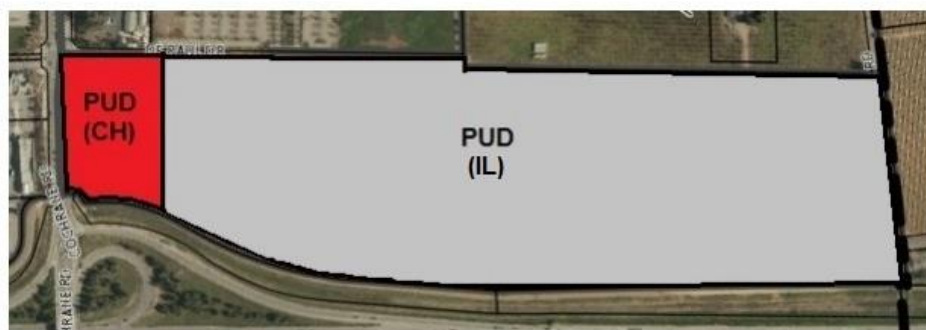


The Zoning designation would be amended from Planned Unit Development-CH (Highway Commercial), CO (Administrative Office), PUD-IL (Planned Unit Development-Light Industrial) to PD (Planned Development) Combining District with CH (Highway Commercial), and IL (Light Industrial) Zoning Districts as shown on the following graphic:

Existing



Proposed



The project proposal contains approximately 1,060,000 square feet of industrial warehouse/advanced manufacturing, supporting office, and similar industrial and commercial uses, 45,000 square feet for industrial office (not owned or controlled by this applicant) on an existing 2.18-acre parcel, and up to 75,000 square feet for retail/commercial development on approximately 2.92 acres.

A further explanation of the applicant's request is provided in the attached Supporting Statement (Attachment 1). The existing General Plan and Zoning Districts are shown in further detail in Attachment 2. The proposed General Plan Designations and Zoning Districts are shown in further detail in Attachment 3. A parcel map has been provided showing the reconfiguration of the properties to conform to the highway commercial and commercial industrial portions of the Preliminary Development Plan (Attachment 4).

ANALYSIS:

1. Purpose of the Planned Development Combining District.

Pursuant to Section 18.30.050.A of the Morgan Hill Municipal Code, "the purpose of the Planned Development (PD) combining district is to allow for high quality development that deviates from standards and regulations applicable to base zoning districts in Morgan Hill. The PD combining district is intended to promote creativity in building design, flexibility in permitted uses, and innovation in development concepts. The PD combining district provides landowners with enhanced flexibility to take advantage of unique site characteristics and develop projects that will provide public benefits for

residents, employees, and visitors.”

Permitted land uses in the PD combining district may deviate from the land use regulations of the applicable base zoning district provided the PD combining district allows only those land uses permitted in the applicable General Plan land use designation. The preliminary review hearing provides an opportunity for the Commission and the public to give input on how different uses should be dealt with through descriptions and definitions. Should a definition of a use in the Municipal Code be too broad, vague or dated for the current time, the PD can further define that use. For example, the definition of warehouse is as follows:

18.124.050 - Industrial uses.

G. Warehousing and Distribution. A use engaged in storage, wholesale and distribution of manufactured products, supplies, and equipment to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes merchant wholesalers; agents, merchandise or commodity brokers, and commission merchants; assemblers, buyers and associations engaged in the cooperative marketing of farm products; and bottling works.

- 1. Warehousing and Distribution, Large. A warehousing distribution facility seventy-five thousand square feet or more in building area.*
- 2. Warehousing and Distribution, Small. A warehousing distribution facility less than seventy-five thousand square feet in building area.*
- 3. Outdoor Storage. Storage of commercial goods in open lots.*

Is this definition appropriate for this particular PD? Should this definition be refined? Should particular uses of concern, such as a fulfillment center, be independently defined and regulated differently than warehouse and distribution and/or prohibited? Within the PD there are also opportunities to break up the definition of warehousing and distribution uses into different types – freestanding and ancillary as one example. Different types of uses could also have square footages that govern the type of permit required for such use (i.e. permitted by right, administrative, conditional).

The applicant has provided a list of proposed permitted and conditional uses for the 2.92-acre Highway Commercial portion (Attachment 5) and the 57.01-acre Industrial portion of the project (Attachment 6). In these lists, the applicant has included refined definitions of different uses, added uses that are consistent with the General Plan land use designation and proposed square footages for warehouse uses.

The PD allows a project to deviate from development standards in the base zoning district (except the maximum floor area ratio). The applicant is requesting the following deviations:

- a. Building height restriction to allow parapet height up to 55 feet and two cell

towers up to 90 feet in height (in the industrial (IL) PD); Base zoning in the IL district allows 50 feet in height.

- b. Parking standards to accommodate truck trailer storage parking; and,
- c. A 10-foot screen wall.

The maximum floor area ratio (FAR) for the proposed development would be less than 0.45. The Industrial designation allows for a maximum FAR of 0.60. Preliminary project plans have been provided (Attachments 7 - 11).

2. **Planned Development (PD) Master Plan Findings**

In addition to providing feedback to the applicant regarding their proposed Preliminary Development Plan, the Planning Commission should also provide preliminary input on the proposal's consistency with the PD Master Plan findings in Section 18.30.050.H.7 of the Zoning Code.

18.30.050.H.7 PD Master Plan Findings

- a. The proposed development is consistent with the General Plan, Zoning Code and any applicable specific plan or area plan adopted by the City Council.
- b. The proposed development is superior to the development that could occur under the standards applicable in the existing zoning districts.
- c. The proposed project will provide a substantial public benefit(s) as defined in Paragraph 8 Substantial Public Benefit Defined (Attachment 12). The public benefit provided shall be of sufficient value as determined by the Planning Commission to justify deviation from the standards of the zoning district that currently applies to the property.
- d. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.
- e. Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.
- f. The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area.
- g. Findings required for the concurrent approval of a Zoning Map Amendment can be made.

18.114.060 - Findings for approval for Zoning Map Amendments

The city council may approve a zoning code amendment or zoning map amendment only if all of the following findings are made:

A. Findings for all Zoning Code and Zoning Map Amendments.

1. The proposed amendment is consistent with the general plan and any applicable specific plan as provided by Government Code Section 65860.
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the city.

B. (Zoning Text Amendment finding)

C. Additional Finding for Zoning Map Amendments. The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the zoning code and general plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large.

Conclusion

Staff recommends the Planning Commission provide feedback regarding the proposed land uses and Preliminary Development Plan. Input is not a recommendation for approval or denial of the project. At this point in project review, any recommendation to the applicant is advisory only and shall not be binding on either the applicant or the City.

3. **California Environmental Quality Act (CEQA):**

An Environmental Impact Report (EIR) is being prepared for the project to identify the significant environmental effects anticipated to result from development and operation of the project as proposed. The Draft EIR will be completed and circulated for public review and comment in December 2019. Subsequent to the preparation of the EIR, public hearings will be scheduled to consider and take action on the project.

LINKS/ATTACHMENTS:

1. Supporting Statement
2. Existing GP and Zoning Designations
3. Proposed GP and Zoning Designations
4. Proposed Parcel Map
5. CH (Highway Commercial) Proposed Permitted and Conditional Uses
6. IL (Light Industrial) Proposed Permitted and Conditional Uses
7. Building 1: Conceptual Site Plan- Elevations and Renderings (Weblink)
8. Building 2-Conceptual Site Plan-Elevations and Renderings (Weblink)
9. Building 3- Conceptual Renderings (Weblink)
10. Building 3- Conceptual Site Plan and Elevations (Weblink)
11. Conceptual Site and Landscape Plans (Weblink)
12. SubstantialPublicBenefitDefined

Trammell Crow Company

415 Mission Street, 45th
Floor
San Francisco, CA 94105

415-772-0399 Direct
650 224 8707 Mobile

Tjodry@trammellcrow.com
www.trammellcrow.com

Tom Jodry
Senior Vice President
Development Management

City of Morgan Hill Planning Department
Attention Jim Rowe
17575 Peak Avenue
Morgan Hill, CA 95037-7236

General Plan Amendment, Zoning Amendment and PD Combining District Plan
APPLICATION & SUPPORTING STATEMENT
DATE: 10/10/2019

Dear Jim,

In response to the requirements set forth by the City of Morgan Hill Municipal Code regarding the proposed General Plan Amendment, Zoning Amendment and Planned Development Combining District Application, we propose a General Plan Amendment and PD Combining District Zoning designation be approved for the subject property we refer to as *Morgan Hill Technology Center*, an advanced manufacturing and research business park.

Morgan Hill Technology Center will provide numerous public benefits to the City of Morgan Hill that advance goals of the 2035 General Plan and the City's Economic Blueprint. Examples of benefits include but are not limited to the following:

1. The project creates additional industrial land to generate skilled job opportunities and to promote a healthy jobs-housing balance for Morgan Hill
2. The project reduces the site's commercial footprint, responding to the Economic Blueprint's retail concentration efforts
3. The project provides industrial inventory, improving expansion opportunities for local and regional businesses, while maximizing the economic potential of the land
4. The project will generate 1,000 or more net new jobs and \$100 million or more in annual salaries and wages, including job opportunities for Morgan Hill residents that reduce commute times and support aligning household incomes with local housing costs
5. The project will generate over 400 construction jobs

Date: 10/10/2019

General Plan Amendment, Zoning Amendment and PD Combining District Plan
APPLICATION & SUPPORTING STATEMENT

6. The project is respectful of the community and designed appropriately so it is not intrusive and does not max out allowable building coverage or height limits. The project offers considerable landscaping, benches along DePaul Drive, tenant amenity areas and screening throughout with significant articulation and varied façade elevation heights
7. The project will serve as an acoustic barrier for properties to the East of Highway 101
8. The project will create multiple opportunities for wall murals and public art
9. The project combines state of the art facilities with flexible design to attract new companies to the City
10. Salaries at the project are anticipated to be meaningfully higher than the average salary in Morgan Hill
11. The project proposes to provide enhanced wireless voice & data communication infrastructure in response to the City's Telecommunications Master Plan
12. The project will contribute significant one-time impact fee funds, approximately \$13,000,000, to help ensure the City maintains a healthy, fiscally sustainable budget
13. The project will provide approximately \$700,000 in annual General Fund revenues which will contribute to local schools, police, firefighters, infrastructure and parks
14. The project will help drive sales taxes from employees patronizing local shops and restaurants, and overnight stays at local hotels, including occupancy taxes (TOTs – Transit Occupancy Tax) that support Morgan Hill's General Fund
15. The project will enhance the area through the direct construction of streets, sidewalks, and public infrastructure, improving pedestrian accessibility

Date: 10/10/2019

General Plan Amendment, Zoning Amendment and PD Combining District Plan
APPLICATION & SUPPORTING STATEMENT

16. The project will provide enhanced bike and trail entry/access to the Madrone Channel Trail and shading of the trail through its perimeter landscaping
17. The project will feature sustainable design elements including solar compatibility, bike racks, bike charging stations and provisioning for EV charging stations
18. The project will provide new stormwater/runoff pollution protection for the De Paul Health Center

We request the approval of a General Plan Amendment to change the current land use designations of Commercial and Commercial/Industrial as follows:

Current General Plan Designation Commercial shall be reduced in area from approximately 30.08 acres to 2.92 acres per the attached "Exhibit 1 – Existing General Plan Designation and Zoning District" and "Exhibit 2 – Proposed General Plan Designation and Zoning District". The change affects all or part of APNs: 728-31-014, 728-31-015, and 728-31-016.

Current General Plan Designation Commercial/Industrial shall be expanded in area to 57.00 acres per the attached "Exhibit 1 – Existing General Plan Designation and Zoning District" and "Exhibit 2 – Proposed General Plan Designation and Zoning District". The change affects all or part of APNs: 728-30-006, 728-30-008, 728-30-009, 728-31-014, 728-31-015, and 728-31-016.

Note: The areas listed above are for proposed parcels and have taken into account expected right of way dedications.

In addition, we request Planned Development Combining District Zoning (PDZ-IL) be approved for the proposed combined total of the proposed Industrial Zoned property per the attached Exhibit 2.

The proposed Industrial uses support a wide range of quality jobs, generate a significant amount of revenue and provide essential services that underpin the local and regional economies.

It is important to protect these areas from encroachment by potentially incompatible uses such as retail, group assembly and other incompatible uses.

Date: 10/10/2019

General Plan Amendment, Zoning Amendment and PD Combining District Plan
APPLICATION & SUPPORTING STATEMENT

A Parcel Map will be recorded upon acceptance and approval of the new General Plan & Planned Development Combining District per the attached "Exhibit -3".

We request the specific uses be approved per the attached Highway Commercial (CH) PD Combining Use Designation Exhibit and Industrial (CI) PD Combining Use Designation Exhibit.

Respectfully,

Tom Jodry, Sr. V.P. Development Management
Trammell Crow Company

CC: Will Parker
Don Little
Daniel Odette

LEGEND

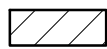
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 (B) PARCEL TWO (24095232 OR) APN: 728-30-009
 (C) PARCEL THREE (24095232 OR) APN: 728-31-014 (PTN)
 (D) PARCEL THREE (24095232 OR) APN: 728-31-015 (PTN)
 (E) PARCEL FOUR (24095232 OR) APN: 728-31-015 (PTN)
 (F) PARCEL FOUR (24095232 OR) APN: 728-31-014 (PTN)
 (G) PARCEL FIVE (24095232 OR) APN: 728-31-016
 (H) PARCEL A (669 M 34) APN: 728-30-008

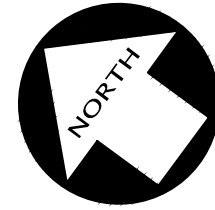
APN ASSESSOR'S PARCEL NUMBER
 (PTN) PORTION
 OR OFFICIAL RECORDS

--- EXISTING ZONING BOUNDARY LINE

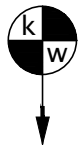
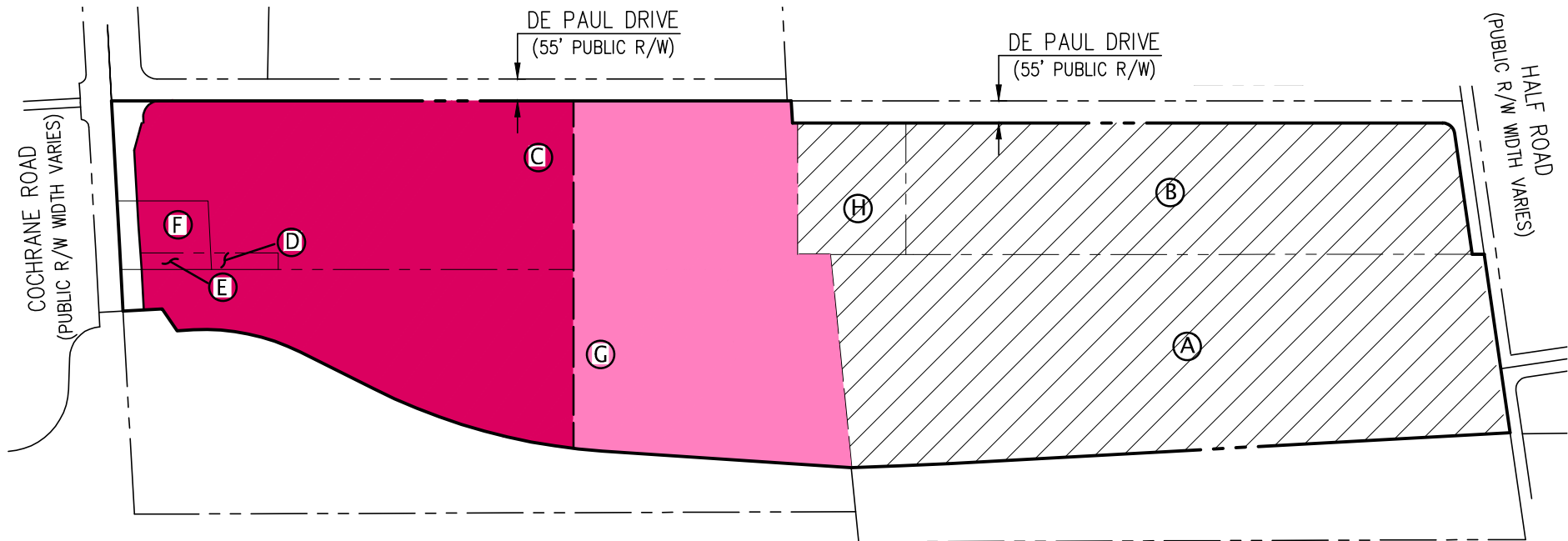
 EXISTING GENERAL PLAN DESIGNATION: COMMERCIAL
 EXISTING ZONING DISTRICT: CH (HIGHWAY COMMERCIAL)

 EXISTING GENERAL PLAN DESIGNATION: COMMERCIAL
 EXISTING ZONING DISTRICT: CO (OFFICE COMMERCIAL)

 EXISTING GENERAL PLAN DESIGNATION: COMMERCIAL/INDUSTRIAL,
 EXISTING ZONING DISTRICT: PUD (IL-LIGHT INDUSTRIAL)



0 200' 400' 800'
 Scale 1" = 400'



KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 2850 Collier Canyon Road Phone (925) 245-8788
 Livermore, California 94551 Fax (925) 245-8796
 www.kierwright.com

EXHIBIT "1"

EXISTING GENERAL PLAN DESIGNATIONS AND ZONING DISTRICTS

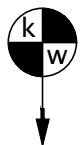
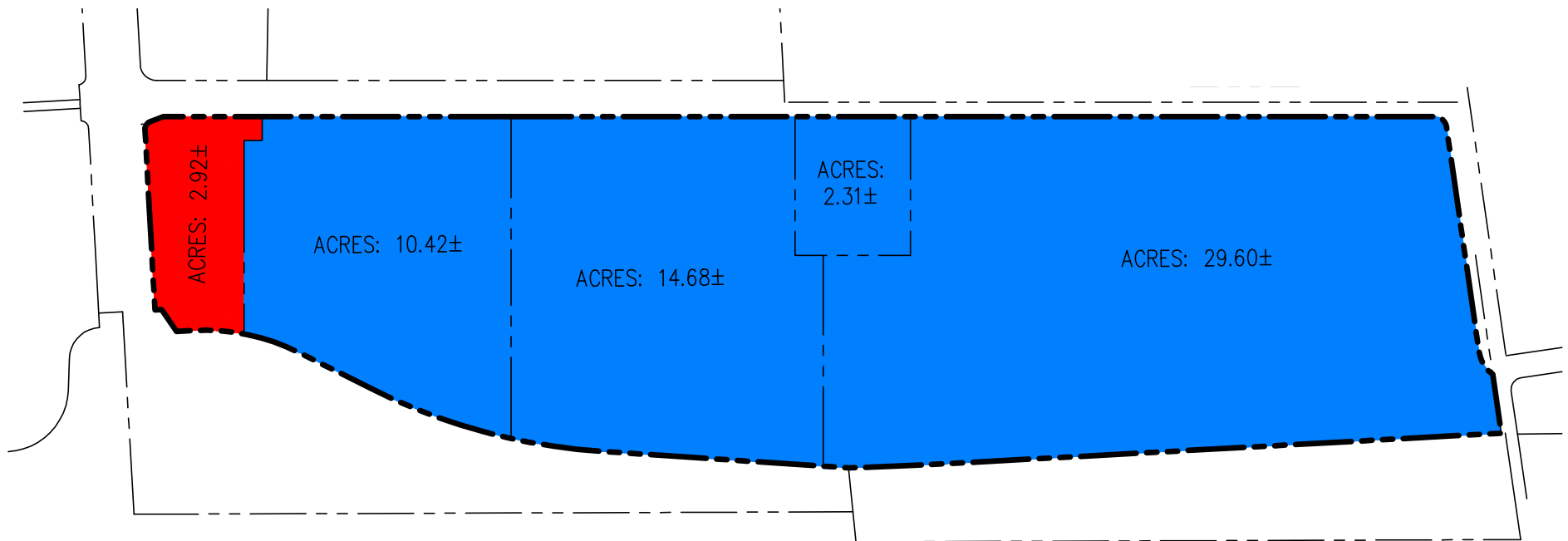
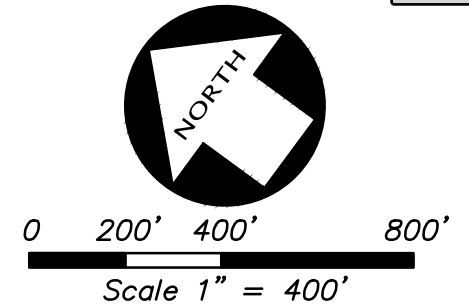
MORGAN HILL,

CALIFORNIA

DATE	AUG., 2019
SCALE	1" = 400'
BY	CSW
JOB NO.	A18673
SHEET	1 OF 3

LEGEND

- PROPOSED GENERAL PLAN DESIGNATION: COMMERCIAL
PROPOSED ZONING DISTRICT: HIGHWAY COMMERCIAL (CH) PD COMBINING
- PROPOSED GENERAL PLAN DESIGNATION: COMMERCIAL/INDUSTRIAL
PROPOSED ZONING DISTRICT: LIGHT INDUSTRIAL (IL) PD COMBINING



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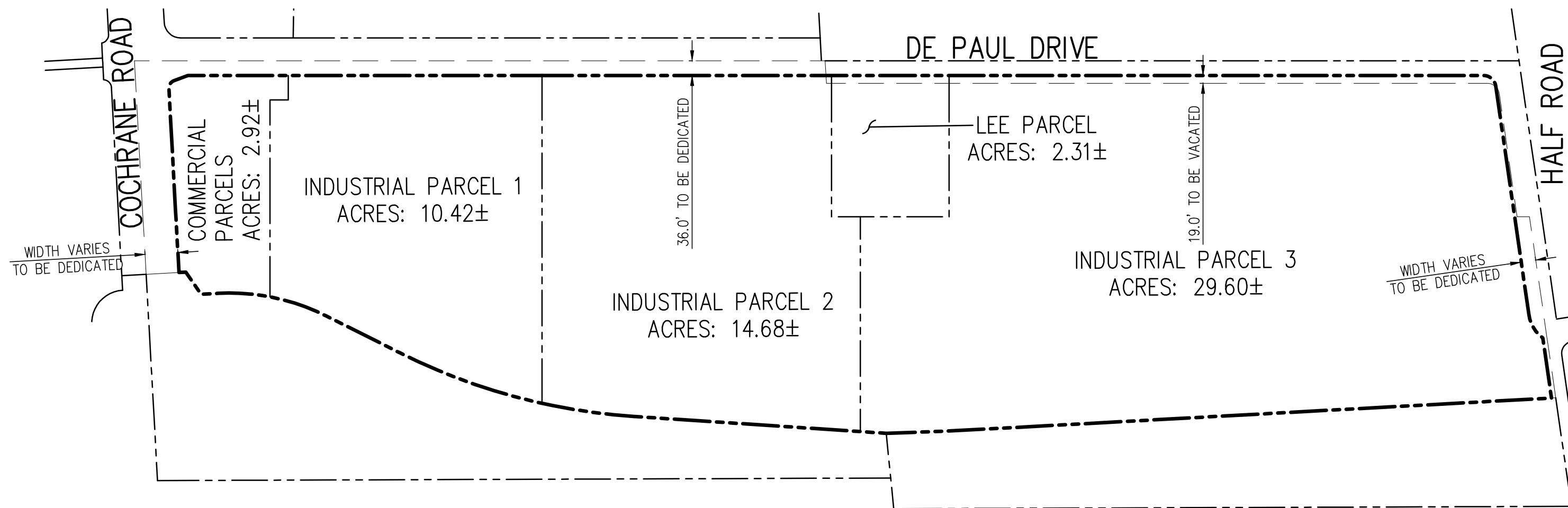
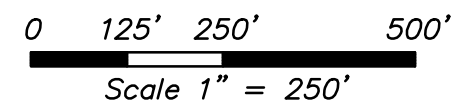
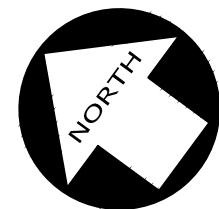
EXHIBIT "2"

PROPOSED GENERAL PLAN DESIGNATION AND ZONING DISTRICT

MORGAN HILL,

CALIFORNIA

DATE	AUG., 2019
SCALE	1" = 400'
BY	CSW
JOB NO.	A18673
SHEET	2 OF 3



NOTE: CONCEPTUAL PARCELS. NO EASEMENTS SHOWN HEREON



2850 Collier Canyon Road
Livermore, CA 94551
Phone: (925) 245-8788
www.kierwright.com

MORGAN HILL,

EXHIBIT "3"
PROPOSED PARCEL MAP

CALIFORNIA

DATE	AUG., 2019
SCALE	1" = 250'
BY	CSW
JOB NO.	A18673
SHEET	3 OF 3

DRAFT Highway Commercial (CH) PD Combining Use Designation Exhibit Amended 9-27-19

						Additional Regulations
Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required						
Instructional Services				A		
Medical Offices and Clinics				A		
Animal Boarding				C		<i>Must be entirely within the building</i>
Veterinarian Clinics and Hospitals				A		
Banks and Financial Institutions				P		
Business Support Services (e.g. carpet cleaning, janitorial, landscape, pest control, etc.)				P		
Cinemas and Theaters				A		
Commercial Recreation, Indoor						
≤ 15,000 sq. ft.				P		
> 15,000 sq. ft.				C		
Drive-Through and Drive-In Facilities				A		
Restaurants, Fast Food				P		
Restaurants, Sit-Down				P		
Tasting Rooms				P		
Hotels and Motels				P		
Professional Offices				P		
Convenience Markets				P		<i>1st use permitted, 2nd use admin approval, also admin with gas station</i>

General Retail				P	
Large Commodity Retail				A	
Fuel and Service Stations				P	
Vehicle Rentals				P	
Vehicle Sales and Leasing				P	
Vehicle Washing				A	<i>Limit one drive-thru</i>
Food and Beverage Production					
< 5,000 sq. ft. [3]				A	
5,000 sq. ft. to 10,000 sq. ft. [3]				C	
> 10,000 sq. ft.				C	
Reverse Vending Machine				C	
Wireless Communications Facilities	See <u>Chapter 18.96</u>				<i>Reference Chapter 18.96 as amended.</i>
Accessory Uses	See Chapter 18.44				
Temporary Uses	See Section 18.92.150				

Notes:

[1] Retail sale of automotive products allowed only when ancillary to a vehicle repair and maintenance use. Retail display areas for automotive products may not exceed twenty-five percent of the building floor area.

[2] Must be one hundred fifty feet or more from a residential zoning district, otherwise requires a CUP.

[3] Permitted only when ancillary to another permitted use.

[4] Allowed as a primary use only when the planning commission finds that the use supports the primary job-generating uses within a business park setting.

[5] Allowed when accessory to a permitted primary use subject to the limitations in Section 18.26.020.D (Accessory Uses).

[6] Allowed only when accessory to a brewery, winery, or other alcoholic beverage production facility. Tasting rooms must be located within the building occupied by the primary use and may not exceed five thousand square feet or ten percent of the gross floor area of the building, whichever is less.

[7] On-site wholesale or retail sales required.

[8] Conditional use permit required when the type of food being produced will emit a generally offensive odor. Examples include primary processing of seafood, coffee roasting, pickled foods, or processes involving primarily fat and oils.

DRAFT Light Industrial (IL) PD Combining Use Designation Exhibit – Amended 9-27-19

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required						Additional Regulations
Caretaker Quarters				C		
Colleges and Trade Schools				C		
Community Assembly				C		
Parks and Recreational Facilities				C		
Public Safety Facilities				C		
Animal Boarding				C		
Veterinarian Clinics and Hospitals				C		
Building Materials and Services (Wholesale/Non-retail)				P		
Business Support Services (e.g. carpet cleaning, janitorial, landscape, catering, pest control, etc.)				P		
Commercial Recreation, Indoor				C		
Tasting Rooms				A [6]		
Food and Beverage Production:				P		
• Beverage- Breweries, Distilleries, Soft Drinks, Bottled Water, Wineries, etc.				P		
• Bread and Bakery Product Mfg. and Confectionery Mfg.				P		
• Fruit and Vegetable Preserving and Specialty Food Mfg., Sugar Mfg., etc.				P		

DRAFT Light Industrial (IL) PD Combining Use Designation Exhibit – Amended 9-27-19

Food products not elsewhere listed in this table (e.g., spices, roasted nuts, flour mixes and doughs)				P	
Equipment Sales & Rental (General Rental Centers, Commercial and Industrial Machinery, Equipment, and Heavy Equipment Sales, Rental, Leasing and Repair)				P	Use must be located entirely within the building
Multimedia Services (Newspaper and book publishing, software publishing, printing, motion picture and sound recording studios, radio and television broadcasting)				P	
Medical Supply Sales (Sales, Services & Distribution of Medical-related products)				P	
Plant Nurseries				P	
Professional Offices				P	
Research and Development (USE CMH CODE)				P	
Building Materials				P	
Home Improvement Centers				C	
Large Commodity Retail				C	
Towing and Impound				C	
Vehicle Sales and Leasing				C	
Vehicle Repair and Maintenance, Major				C	
Vehicle Repair and Maintenance, Minor				P [1]	
Wholesaling				P	
Construction and Material Yards				P	
Manufacturing				P	
Technological Administrative, Sales, and Engineering				P	

DRAFT Light Industrial (IL) PD Combining Use Designation Exhibit – Amended 9-27-19

<i>(Semi-conductor, Computer Hardware, Software and Related, etc.)</i>						
Warehousing and Distribution, Large				P		300,000 SF of Greater
Warehousing and Distribution, Small				P		Less than 300,000 SF
Warehousing and Distribution with Outdoor Storage				C		
Refrigerated Warehouse/Cold Storage				C		
Light Fleet-Based Services				P		
Recycling Facilities				C		
Utilities, Major				C		
Wireless Communications Facilities <i>(Architecturally Integrated Antennas)</i>				See Chapter 18.96		
Telecommunications <i>(Co-location, data center, network operation/surveillance center and broadcast facilities)</i>				P		
Accessory Uses <i>(Uses other than entertainment events, when in conjunction with a permitted use)</i>				P		See note 5 below

Notes:

- [1] Retail sale of automotive products allowed only when ancillary to a vehicle repair and maintenance use. Retail display areas for automotive products may not exceed twenty-five percent of the building floor area.
- [2] Must be one hundred fifty feet or more from a residential zoning district, otherwise requires a CUP.
- [3] Permitted only when ancillary to another permitted use.
- [4] Allowed as a primary use only when the planning commission finds that the use supports the primary job-generating uses within a business park setting.
- [5] Allowed when accessory to a permitted primary use subject to the limitations in Section 18.26.020.D (Accessory Uses).
- [6] Allowed only when accessory to a brewery, winery, or other alcoholic beverage production facility. Tasting rooms must be located within the building occupied by the primary use and may not exceed five thousand square feet or ten percent of the gross floor area of the building, whichever is less.
- [7] On-site wholesale or retail sales required.
- [8] Conditional use permit required when the type of food being produced will emit a generally offensive odor. Examples include primary processing of seafood, coffee roasting, pickled foods, or processes involving primarily fat and oils.

Substantial Public Benefit Defined

18.30.050.H. PD Master Plans

8. **Substantial Public Benefit Defined.** When used in this section, “substantial public benefit” means a project feature not otherwise required by the Zoning Code or any other provision of local, state, or federal law that substantially exceeds the City’s minimum development standards and significantly advances goals of the General Plan. A project must include one or more substantial public benefits to be rezoned as a planned development. The public benefit provided shall be of sufficient value as determined by City Council to justify deviation from the standards of the zoning district that currently apply to the property. Examples of substantial public benefits include but are not limited to:
- a. Housing that is affordable to lower-income households.
 - b. Public plazas, courtyards, open space, and other public gathering places that provide opportunities for people to informally meet and gather.
 - c. New or improved pedestrian and bicycle pathways that enhance circulation within the property and connectivity to the surrounding neighborhood.
 - d. Green building and sustainable development features that substantially exceed the city’s minimum requirements.
 - e. Preservation, restoration, or rehabilitation of a historic resource.
 - f. Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.
 - g. Publicly accessible parks and open space beyond the minimum required by the city or other public agency.
 - h. Habitat restoration and or protection of natural resources beyond the minimum required by the city or other public agency.

From: Julie McLaughlin
To: [Planning Commission](#); [Edith Ramirez](#); [Jim Rowe](#); [Jennifer Carman](#); [Christina Turner](#)
Subject: Morgan Hill Technology Park
Date: Tuesday, October 15, 2019 9:03:42 AM

We are forwarding to each of you a letter that we wrote to Mayor Constantine regarding the proposed Morgan Hill Technology Park. We will be attending the meeting tonight with the city council.

We are not really 'activist' type people, in fact we have never been to a city council meeting. Due to the devastating impact this project would have on Morgan Hill we could not stay silent. Thank you

Paul and Julia McLaughlin

October 15, 2019

Paul and Julia McLaughlin
17628 Bentley Drive
Morgan Hill CA

Mayor Rich Constantine
17575 Peak Ave
Morgan Hill CA 95037

Mayor Constantine,

We wanted to write and express our thoughts about the Morgan Hill Technology park that is being planned for our city. Being homeowners as well as business owners here in Morgan Hill we are highly concerned about the the ramifications that the scope of this project will have on our community.

Morgan Hill is a beautiful, so far, well thought out community for families that have moved here to get away from the high density living conditions of the bay area and wanting to raise those families in a healthy safe environment. We also have our community service industries and some high end mid size companies that have come into town. So far so good.

However this planned Technology park is something that will forever change the way of life for everyone here in Morgan Hill and we feel it will not be for the better. We believe that this 'Technology Park' will indeed be ultimately used as a full scale trucking distribution center, one of the largest in the state. Our roads and infrastructure can not handle this type of activity. The health of our community can not handle this level of activity either. Finally the safety of our community can not handle this level of activity. Our community does not wish to go in this direction and we call upon you to actively intervene and put a stop to what is happening regardless of the price tag in doing so.

Considering the Morgan Hill Technology park and the already 'approved' Shoe Pavilion with 56 trucking bays that will be using the same access to 101 thru our Morgan Hill roads. Morgan Hill will quickly become a nightmare '*trucking distribution town*' where traffic gridlock will be 24/7 and not just am/pm. Even with the proposed cut thru traffic patches that the city is looking into this will not even begin to put a damper on this potential community problem. This is our community, Mayor Constantine and we would like to keep it in a healthy condition for our families and grandchildren who live here.

We have taken an active interest in what a group of Morgan Hill citizens have been researching about this project and join with them in asking you to do the following:

- Follow the General Plan and Zoning Code. Adhere to all city Guiding Documents in making decisions for this project. Do not change the General Plan and Zoning Code to suit the objectives of a developer.

- Follow the law. The Planned Development process and procedures defined in the Morgan Hill Zoning Code are not just guidelines, they are the law.
- Show commitment to transparency with an open and honest dialog during this process. Transparency is a foundational value for ethical government practices. Elected city officials are accountable to those who elect them and transparency is ensured by California's Public Records Act and the Brown Act. As residents of this city, we would like an opportunity to see current project records that have not been properly shared with the public, for example, basic information about the Traffic Impact Analysis.
- Complete an independent and unbiased Environmental Impact Report (EIR) for this project. In doing so, ensure that all environmental impacts of a 1.1 million sq foot distribution center are considered. For example, make sure the Traffic Impact Analysis uses a reliable model to estimate the actual traffic this development could generate with the total number of loading docks and big rig parking spaces in the plan. Also look at how similar projects have impacted other cities to verify these EIR studies are comprehensive.
- Complete a detailed and objective market analysis. We believe the city can collaborate with the builder to find better alternatives for this land use that also provide more benefit to our community.

Thank you Mayor Constantine for your attention to this urgent problem and we will be following closely in the months ahead.

Sincerely

Paul and Julia McLaughlin
Concerned citizens of Morgan Hill

--

Jule's

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AGENDA DATE: 10/15/19
SUPPLEMENTAL # 2

From: john kirkpatrick
To: [Christina Turner](#); [Jennifer Carman](#); [Jim Rowe](#); [Edith Ramirez](#); [Planning_Commission](#)
Subject: Morgan Hill Technology Park
Date: Saturday, October 12, 2019 7:57:07 AM

Hello all, I'm writing to express my concern over the project above. While I'm still gathering facts, my view is this is not a good solution for MH.

I am a long-time resident, 25+ years in town and over 40 in the South Bay. I work locally at a distribution center in MH. It's becoming increasingly expensive to live here and obviously the freeway backs up at an earlier hour each year. The jobs that the Technology Park will provide are not the kind our residents need. These will be blue collar jobs accompanied by blue collar salaries. You can no longer afford to settle in MH on a blue collar salary. In order to satisfy the business needs of the park, workers will need to travel to get here. Often they will driver from over an hour away. This increased traffic (set aside all deliveries to and from the park) will negatively impact our way of life.

This is not right for us. I urge you to seek ways to use this land that will directly benefit our community. .

John Kirkpatrick
408-460-8425

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Item # 1

AGENDA DATE: 10/15/19
SUPPLEMENTAL # 3

From: Mike Tangney
To: [Planning Commission](#)
Subject: TC TECH PARK
Date: Tuesday, October 15, 2019 3:56:59 PM

As a nearby resident, please do not allow the requested rezoning.

Thanks,

Mike T

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Impact of Trucks on Morgan Hill

5.17

	MidPoint@237	Morgan Hill Tech Ctr	Shoe Palace Distribution Ctr
# of Loading Docks	78	192	56
Avg Truck Trips per Day	156 (Max 220)	384 (Max 541)	112 *(5-8) (Max 158)
Truck Trips per Hour	9 - 12	21 - 30	6 – 9
Avg Truck trip time	2 minutes	?	?
Operating Hours	18hrs (Mon-Fri)	18hrs (Mon-Fri)**	24/7**

Attachment: 01 Supplement #4 - mhctTrucks2 (Carrillo) (2512 :

Midpoint@237 info from:

<http://www.sanjoseca.gov/index.aspx?NID=4955>

* Morgan Hill CDD, Planning Division estimates 5-8 truck trips per day

** Assuming MidPoint@237 operating hours for calculations

A presentation to the Morgan Hill Planning Commission

October 15, 2019
Joe Baranowski

City & Applicant like to talk about ‘Myths vs. Facts’ and it *is* (unfortunately) a critical topic for what is happening and this ‘process’



FACT: The applicant has misled the public before

5.18

Myth:

"The purpose of this Planned Development is to provide an environment for and conducive to the development and production of modern, professional, and administrative facilities, **research institutions, manufacturing operations, and related uses**, including **distribution facilities, all of a non-nuisance type.**"

Fact:

"when doors at Tesla open up, it sounds as loud as if big trash bins are slamming into the ground"

"virtually every morning in the summer at 6:00 a.m. or earlier he hears clanging doors opening and closing, dumpsters going, and this is unacceptable.....There is seemingly an inconsistency where truck operators refrain from honking horns between 10:00 p.m. and 7:00 a.m."

Google Earth

Voyager St



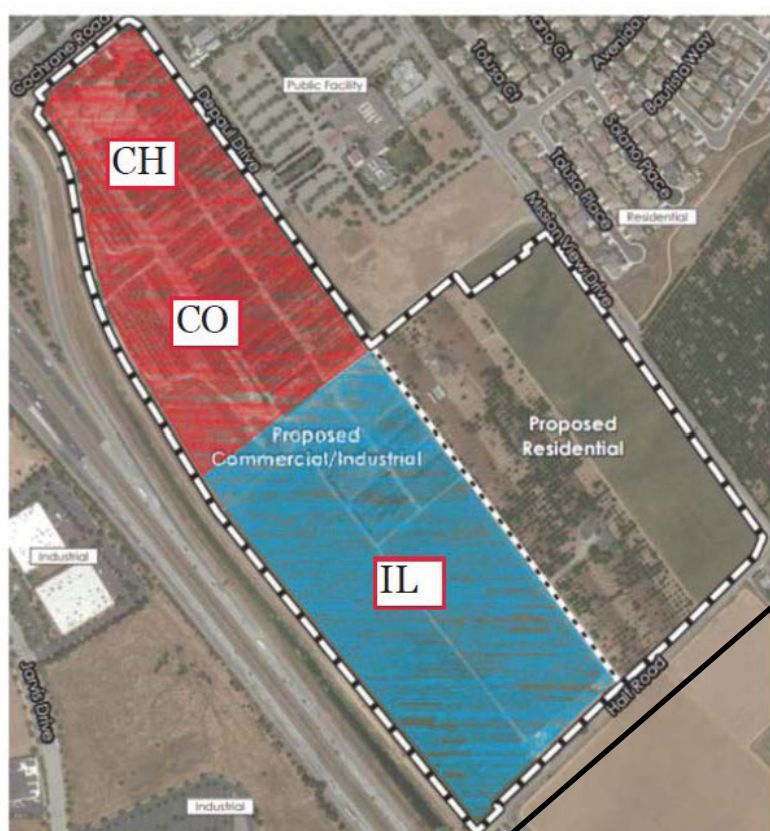
FACT: City plays legalese game instead of correcting misleading statements

5.18

<https://www.morgan-hill.ca.gov/1765/Morgan-Hill-Technology-Park-EIR>

'Detailed information about the Morgan Hill Technology Park EIR'

MORGAN HILL TECHNOLOGY PARK ENVIRONMENTAL IMPACT REPORT (EIR)



What does the current zoning allow?

Commercial zoning allows retail, administrative, professional services, office, warehouse and distribution but not Research and Development (R&D) and Advanced manufacturing

Like · 16w

(Facebook Post)

replied · 2 Replies

In the same consideration, Can you please clarify the statement on the new website about rezoning? The statement that "No developer has a right to rezone property to meet their own objectives." I'm not sure that there is any action to rezone. Is there?

According to the EIR report:
"What does the current zoning allow?
Commercial zoning allows retail, administrative, professional services, office, warehouse and distribution but not Research and Development (R&D) and Advanced manufacturing.
Industrial allows warehouse, distribution, office, Research and Development (R&D) and Advanced Manufacturing."

★★ It is already zoned for warehouse and distribution.★★

Morgan-Hill-Technology-Park-FAQ--61119

Q4: Why hasn't the false statement "commercial zoning allows warehouse and distribution" in the "detailed information about the MH technology park eir" document been corrected?

A: It is not a false statement. There are commercial zoning districts that do allow warehouse and distribution. The questions received by the community confused the difference between the General Plan and the Zoning Ordinance and this was our attempt to answer it. The info sheet is being expanded and revised to include all relevant zoning information. In this particular case, the existing zoning is not



Packet Pg. 48

(<https://www.wildlife.ca.gov/Conservation/CEQA/Purpose>)

The purpose of the California Environmental Quality Act (CEQA) is to:

- Prevent or minimize significant, avoidable damage to the environment.
- Disclose potential environmental effects of a proposed discretionary project, through a variety of publicly accessible documents.
- **Encourage public participation in the environmental review and decision-making process.**
- **Ensure transparency in governmental decision-making process.**

- Shoe Palace CEO “not expecting extensive analysis”, “6-month review surprising”, viability of project questioned → David J. Powers President’s e-mail to city 3 weeks later:

*“Hi, attached please find our revised scope of work, the schedule has been reduced by nine weeks from initial version, primarily by simplifying the traffic analysis and shortening internal review times. The cost came down as well, reflecting the simpler traffic analysis. Other options to reduce the schedule include **selecting a 20-day public review for the MND, rather than the 30-days** City has been opting to provide.”*

*“We investigated the possibility of preparing an Addendum (**which would avoid the need altogether for a public review period**), and should discuss that option by phone. If there is a good time for a short call this week, let us know. Thanks.”*



- Shoe Palace current building has **4** Truck Docks
- New building will have **56** Truck Docks
 - » Hexagon Consultants uses applicant claim that Daily Truck Trips will only increase from **5** to **8**
 - Independent traffic analysis done by highly qualified expert concluded: *“by failing to acknowledge the applicable trip rates identified by ITE the traffic analysis is not supported by substantial evidence.”*
 - Dept. of Transportation wrote City: *“During AM and peak and PM peak hours, the US 101/Cochrane Road ramps, in the northbound and southbound-directions, are congested.....Inadequate vehicle storage could result in queues backing up onto the freeway mainline creating significant conflicts.”*
- There won't be a Traffic Problem because the Applicant says there won't be is about to be repeated. Hexagon has said *“the number of trucks generated by the proposed industrial space will be estimated on anticipated site operations”*. But Trammell Crow (supposedly) has no idea who the tenant might be!
- 52 more Truck Docks created 3 more daily Truck Trips for Shoe Palace. Hexagon is at the helm again. NO WONDER Trammell Crow and the City can 'confidently' say Truck Traffic is just a 'myth'!



- Anyone opposed to this project doesn't understand (or 'respect') that property owner has a right to this process
 - » We completely understand and have been vocal advocates that PROCESS BE FOLLOWED
 - » But EVERY process depends on Transparency and Accuracy of ALL the participants
 - » Citizens have *legitimate reasons based on recent, relevant, documented actions* of participants to be concerned that this process will not be fair or unbiased. Often only recourse is through courts, e.g. "CEQA is self-executing statute. Public agencies are entrusted with compliance with CEQA and its provisions are enforced, as necessary, by the public through litigation and threat thereof". Luckily, there is a better way for this exact situation.
- No matter how many people get involved and advocate for Responsible Growth, the City Council can do whatever they want and there is nothing Morgan Hill residents can do to stop this misguided project. Do NOT believe this !!!
 - » Citizens right to use Initiative and Referendum is embedded in CA Constitution and closely guarded by courts
 - » Citizen voters are co-equal with locally adopted legislative bodies (i.e. City Council) when acting upon legislative matters, including the field of legislative actions involving land use matters
 - » We will continue to hope that are voices are heard. We will continue to promote Responsible Growth. And we *will* exercise OUR RIGHT to use Initiative process to legislate for public benefit of Morgan Hill and beyond.
 - » Does the Planning Commission support citizens right to do what we believe the City Council will not?
 - » Does TC respect the rights of Morgan Hill citizens as they want their rights as property owners to be respected?



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MCC

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4 Buildings
±604,796 SF
Q2 2019 Delivery

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john.mcmamus@cushwake.com
LIC. #01129064

VICTOR F. DeBOER
Senior Director
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victor.deboer@cushwake.com
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Another quality
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CUSHMAN &
WAKEFIELD

OMP
OVERSEAS MODE PROPERTIES

Packet Pg. 52

Attachment: 01 Supplement #6 - Planning CommissionMtg -TC (R. Carrillo) (2512 : SR2019-0029 Preliminary Plan Review for Morgan Hill

PROPERTY

FEATURES



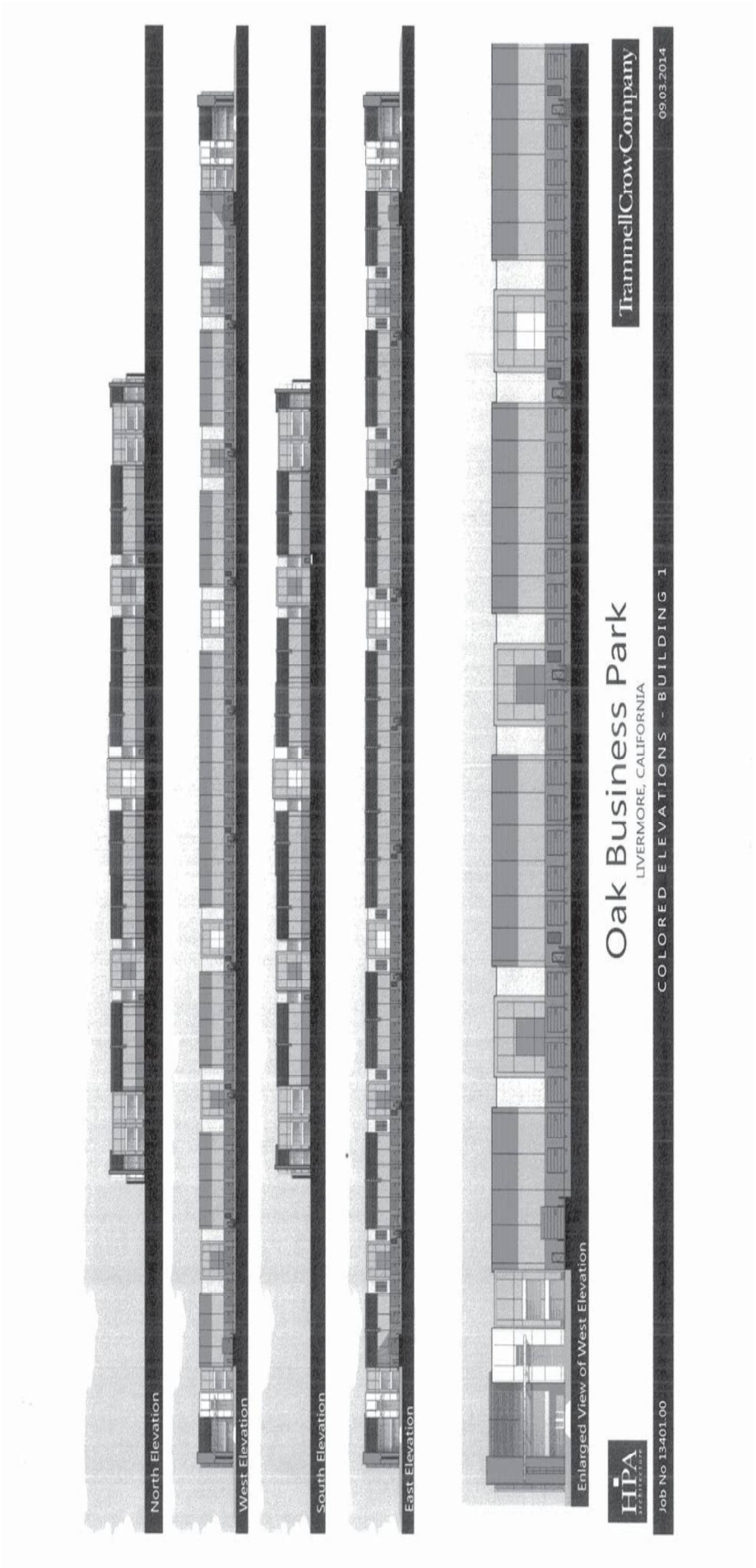
Morton Commerce Center in Newark, California—Highlights

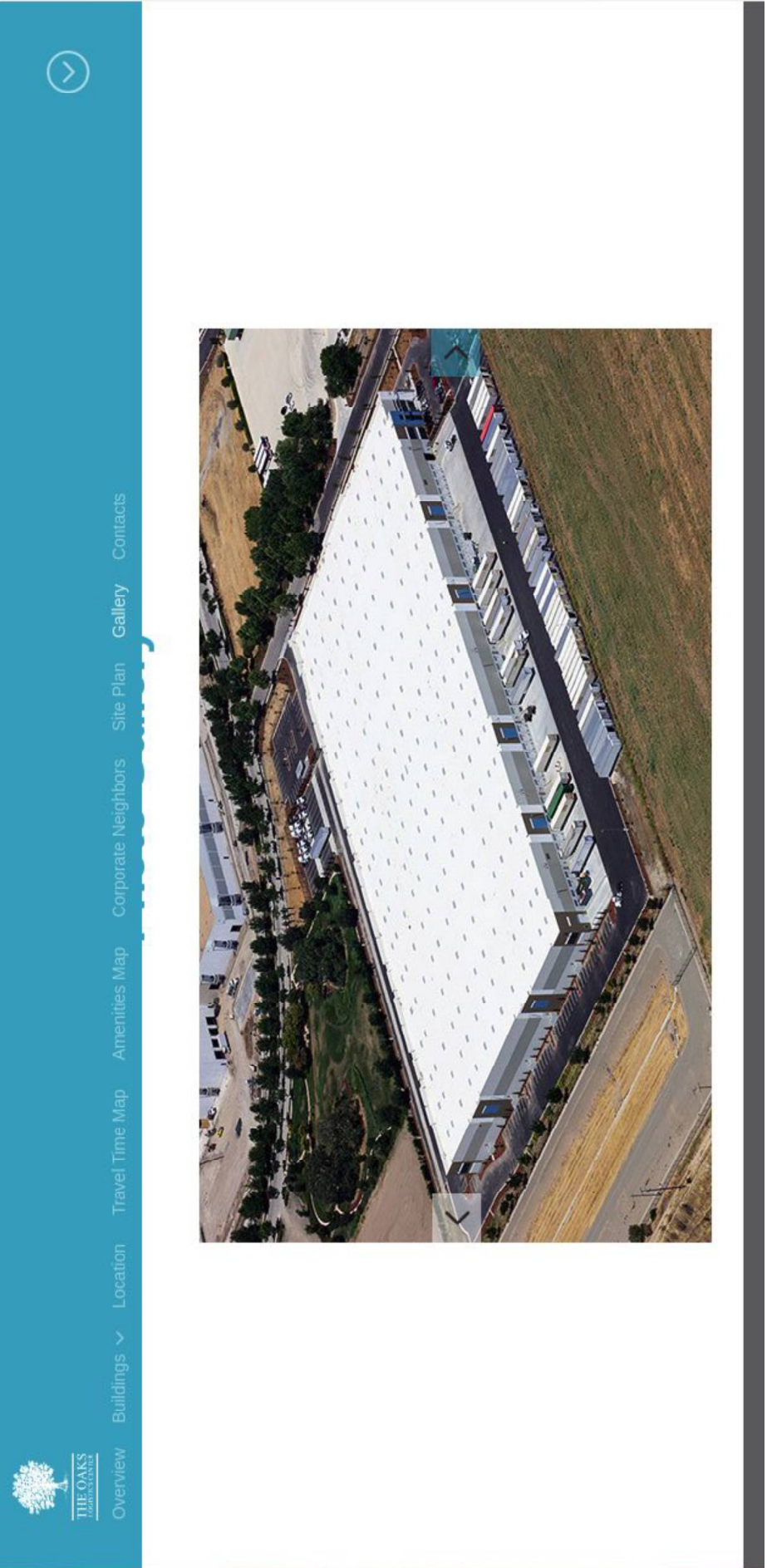
- Strategic Bay Area location, situated between Silicon Valley and Oakland
- 3.3 miles to Dumbarton Bridge (Hwy 84) providing convenient access to San Francisco Peninsula.
- State-of-the-Art buildings constructed for flexibility
- Exterior workspaces for employees to encourage collaboration and increase productivity
- Ability to "super park" the buildings for companies with high employee counts
- Heavy power to every building (see separate building plans for exact specifications)
- Extensive vision glass and skylights for natural lighting into the workspaces.
- 100% solar roof capability
- Gas lines fed to the buildings for heavy manufacturing uses
- Class "A" location and building infrastructure for companies performing advanced automation, contract mfg/assembly, 3D printing, food manufacturing/prep, life sciences R&D, automotive supply chain functions, aerospace, defense work, and autonomous driving.

iv | Morton Commerce Center











PLANNING COMMISSION STAFF REPORT

MEETING DATE: October 22, 2019

PREPARED BY: Joey Dinh, Associate Planner

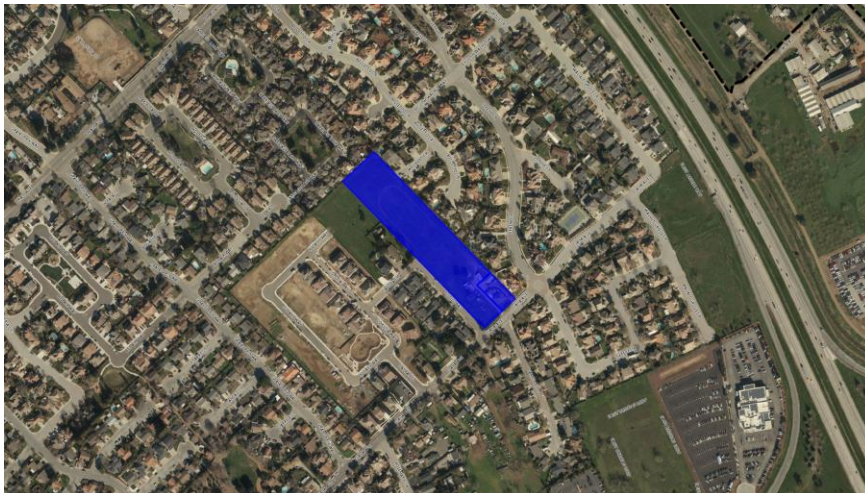
APPROVED BY: Jennifer Carman, Community Development Director

SD2018-0006, DA2018-0003, EA2018-0023, ZA2019-0006: DIANA - MANA HANALEI PROJECT (MONTECITO ESTATES) - SUBDIVISION MAP, DEVELOPMENT AGREEMENT, ENVIRONMENTAL ASSESSMENT, AND ZONING AMENDMENT FOR PROPERTY IDENTIFIED BY ASSESSOR PARCEL NUMBERS 726-09-001 AND 726-09-002 LOCATED AT 815 DIANA AVENUE AT THE NORTHWEST CORNER OF DIANA AVENUE AND LOTUS WAY.

RECOMMENDATION(S)

1. Open/close the continued public hearing;
2. Adopt a Resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project;
3. Adopt a Resolution approving a Tentative Subdivision Map;
4. Adopt a Resolution recommending the City Council approve a Zoning Amendment for a Planned Development Combining District; and
5. Adopt a Resolution recommending the City Council approve a Development Agreement.

LOCATION MAP



PROJECT SUMMARY:

1. Location: Northwest corner of Diana Avenue and Lotus Way/815 Diana Ave (726-09-001 and 726-09-002)
2. Site Area: 4.84 Acres
3. General Plan: Residential Detached Medium (RDM) Designation
4. Zoning: Residential Detached Medium Density (RDM-7,000) Designation

BACKGROUND:

An application was submitted for the 2017 Residential Development Control System (RDSCS) competition requesting 23 building allotments for the project site. At the May 22, 2018 Planning Commission meeting, the Commission adopted Resolution No. 18-13 awarding the project 23 Fiscal Year 2019/2020 building allotments. On June 20, 2018, the City Council approved Resolution No. 18-050, reaffirming the distribution of the RDSCS allotments for Fiscal Year 2019/2020.

On June 6, 2018, the City Council adopted Ordinance No. 2277, approving a comprehensive update to Title 18 (Zoning), including an amendment to the City's Official Zoning Map. The update renamed the R-1 Single Family Medium Density (R1-7,000) zone district to Residential Detached Medium (RDM-7,000). The development standards were retained.

On October 8, 2019, the public hearing was continued to this date to allow time for staff to complete the necessary documentation for the project.

PROJECT DESCRIPTION:

Mana Hanalei, LLC, for the project Montecito Estates, proposes a Tentative Subdivision Map and Zoning Amendment to establish a Planned Development (PD) Combining District and Planned Development (PD) Master Plan to subdivide a 4.84-acre parcel into 24 residential lots and construct 24 single family residences, public access roads, a private park, and associated improvements. The proposed project involves the demolition of an existing house and associated residential structures with no historic or cultural implications and the development of 24 residential units on the project site. The lots would vary in size, from 3,862 square feet to 9,228 square feet. Most of the single-family lots would be sized between 7,000 and 8,000 square feet. The project would include 12 single-story and 12 two-story units, distributed throughout the site to create height variation and a visually interesting appearance within the neighborhood. All the proposed residential units would include attached garages for two vehicles.

The project site fronts Diana Avenue and Lotus Way. Dakota Drive would be extended to connect with the new Julian Way extension. Juliann Way will extend through and connect with Weichert Way. A new cul-de-sac (Lotus Court) would extend from Lotus Way.

Off-site improvements would be provided along Diana Avenue and Lotus Way. Additional improvements would also be provided along Weichert Drive and the

intersection of Diana Avenue and Serene Drive for roadway consistency and traffic calming. The project is also obtaining 12 additional feet of right-of-way (ROW) dedication along Dakota Drive. Proposed improvements include the installation of sidewalks, curb and gutter, and public utility relocation.

The project plans include the development of a 0.27-acre (Parcel A) private park with a tot lot. Amenities include an ADA accessible pedestal BBQ, picnic tables, raised garden beds, a horseshoe pit, metal benches, extensive landscaping, walkways, and fencing surrounding the park. The project's private park would also serve as a bioretention site for treatment of stormwater runoff from the project's impervious surfaces. Bioretention improvements include underground storage rain tank units for 24,461 cubic feet of stormwater retention. The project's Homeowners Association would be responsible for the maintenance of the underground storage rain tanks and associated storm drain lines.

Construction for the project would involve removal of eight (8) ordinance-sized trees, four (4) coast live oaks and four (4) non-native trees. Several of the trees are in poor condition and need to be removed for safety reasons. However, staff recommends a replacement ratio of 1:1 for all trees proposed to be removed, and a project condition has been included with this requirement. The project includes a preliminary Landscape Plan that provides for the installation of both native and non-native plants around the project site and proposed park. Grading and excavation would be required to accommodate the new residences and utility connections. Detailed project plans have been provided (Attachments 6 and 7).

A Development Agreement is proposed to incorporate 23 RDCS building allotments and to memorialize the RDCS public benefit commitments. The Development Agreement specifies the duration and permitted uses of the subject property, and the general location and density or intensity of uses. It also contains provisions concerning its transferability to any successor owners of the property. The Development Agreement clearly outlines the benefits provided to the City by entering into the Agreement.

Site Description

The project site is a 4.84-acre site consisting of two separate parcels with the same property owner (726-09-001 and 726-09-002). The site currently has an existing single-family dwelling unit and several associated accessory structures on the northeastern corner of the lot. The remainder of the site is undeveloped with trees, shrubs, and grasses covering the site. The property has frontage along Diana Avenue and Lotus Way, Weichert Drive and Dakota Drive also connect perpendicular to the site.

Surrounding Zoning/Land Use

North:	RDM-7,000 & RPD - Single-family residences
West:	RDM-7,000 - Single-family residences
East:	RDM-9,000, RDM-7,000, & RPD – Single-family residences
South:	RDM-7,000, RAL-3,500, RPD, & CG/ Single-family residences and

neighborhood commercial (Starbucks, CVS, Trader Joes)

ANALYSIS:

The request is submitted pursuant to the following:

- Chapter 17.20 Subdivision Map Requirements
- Chapter 18.30.050 Planned Development Combining Districts
- Chapter 18.116 Development Agreements

All the requests were analyzed with respect to consistency with 1) General Plan; 2) Zoning Code; 3) Residential Development Control System; 4) Tentative Map; 5) Findings; and 6) California Environmental Quality Act.

1. General Plan

The site has a land use designation of Residential Detached Medium (RDM). This designation also applies to parcels to the north, west, and south of the project site. It is intended to accommodate detached homes on smaller lots including courtyard homes, manufactured homes, and small-lot single-family homes. Up to 25 percent of a site may include duet units. The RDM designation generally allows a density up to 7 units per acre.

The site will connect to the adjoining properties in conformance with the General Plan policies. The project is surrounded by existing roadways on Diana Avenue and Lotus Way. Circulation through the project will be served with roadway extensions for Dakota Drive, Juliann Way, and Weichert Drive and the construction of a new cul-de-sac (Lotus Court) from Lotus Way.

The following General Plan goals and policies are applicable to the project:

City and Neighborhood Form Element

Policy CNF-2.1 Orderly Development. Promote the orderly development of the City, with concentric growth and infill of existing developed areas.

Policy CNF-2.2 A Balanced Community. Plan for the needs of all socioeconomic segments of the community, encouraging a balance and match in jobs and housing within the City.

Policy CND-2.3 Quality of Life. Maintain Morgan Hill's high quality of life for existing and future residents.

Policy CNF-8.2 Design Features. Encourage design features and amenities in new development and redevelopment, including, but not limited to:

- Highly connected street layouts, supporting multiple paths of travel for all modes.
- Cluster buildings to create useable open space.
- Abundant landscaping.

- Attractive transitions between uses.
- Comfortable pedestrian facilities that promote a high level of pedestrian activity.
- Distinctiveness and variety in architectural design.

Policy CNF-8.7 Design Sensitivity. Ensure that new development is sensitive to the character of adjacent structures and the immediate neighborhood.

Policy CNF-11.5 Outside Connections. Require new subdivisions to provide multiple connections to the surrounding community. Methods to achieve this may include:

- Providing multiple points of entry into the project for motorists, bicyclists and pedestrians.
- Planning for future connections to adjacent undeveloped property.

Consistency

The land use designation contemplates residential uses. The primary uses in the surrounding area include detached single-family dwellings and designated open space. The project will introduce detached single-family dwellings similar to other housing types in the vicinity. Available infrastructure is located adjacent to the project site, including wet and dry utilities. The proposed architecture will be evaluated during the Design Review permit process.

The proposed site plan includes a total of 24 single-family dwelling units on a 4.84-acre site, which translates to 4.95 units per acre. The proposed density complies with the General Plan. Six of the proposed units are duets, representing no more than 25 percent of the project development.

2. Zoning Code

The applicant is requesting to establish a PD Combining District on the site by submitting a PD Master Plan and Zoning Amendment. Projects may deviate from the standard development standards in the applicable base zoning district, with the adoption of a PD Combining District and PD Master Plan.

As demonstrated in Table 1, the project would meet the requirements of the zoning code with deviations required for setbacks.

Table 1 – Zoning Consistency Summary

RDM-7,000 Site Requirements	Requirement	Proposed	Consistency
Lot Area	7,000 square feet; 7,500 square feet for corner lots; 3,500 square feet for corner duet lots	7,001 min square feet; 7,502 min square feet corner lots; 3,862 min square feet corner duet lots	Yes
Lot Width	60 feet; 40 feet for	60.35 feet min; 43.33 feet	Yes

	corner duet lots	min for corner duet lot	
Lot Depth	85 feet	89.13 feet min	Yes
Lot Coverage	50%	<50%	Yes
Setbacks			
Front	First Story: 20 feet Upper Stories: 25 feet	21.11 feet min	No
Rear	First Story: 20 feet Upper Stories: 25 feet	16.89 feet min	No
Interior Side	First Story: 5 feet Upper Stories: 12.5 feet	First Story: 5 feet min Upper Stories: 6.38 feet min	No
Street Side	15 feet	13.66 feet min	No
Height	30 feet	<30 feet	Yes

Deviations

The proposed project does not meet the minimum setback requirements established in the RDM-7,000 zone district for 13 of the 24 lots. Complete details regarding the deviations are provided in Attachment 8. The applicant has provided detailed information justifying the deviations requested (Attachment 9).

The site layout has been well designed and considers the adjacent neighborhood, site circulation, connectivity and open space. There are no concerns with the proposed setback deviations.

Parking

The Municipal Code requires that each single-family house provide two covered parking spaces on site. The proposed development provides two covered parking spaces in each garage. Guest parking is required at a ratio of one parking space for each four dwelling units. These spaces may be permitted on the street. Street parking would be provided along both sides Diana Avenue, Lotus Way, Lotus Court, Dakota Drive, Juliann Way, and Weichert Drive, which is consistent with the surrounding neighborhood.

3. Residential Development Control System (RDCS)

An application was submitted for the 2017 RDCS competition requesting 23 building allotments for the project site. At the May 22, 2018 Planning Commission meeting, the Commission adopted Resolution No. 18-13 awarding the project 23 Fiscal Year 2019/2020 building allotments. On June 20, 2018, the City Council approved Resolution No. 18-050, reaffirming the distribution.

The applicant is requesting a Development Agreement to memorialize the public benefit commitments for the 23 allotments awarded to the project. The Final RDCS Narrative (Attachment 10) was reviewed for consistency with the public benefit commitments provided within the Development Agreement.

4. **Tentative Subdivision Map**

A Tentative Subdivision Map has been requested that includes 24 residential lots. The project has received 23 residential building allotments and credit for one pre-existing structure. The existing house will be demolished and rebuilt.

Details of the Tentative Subdivision Map are provided in Attachments 11 and 12, and further explained below:

a. Circulation

Lots 1 through 3 would front Juliann Way, a proposed roadway extension that would connect with Weichert Drive. Dakota Drive would be extended to the middle of the site and turn north, extending to the new Juliann Way extension on the site. The Dakota Drive extension would provide access to Lots 4 through 15, and to the proposed private park. A new cul-de-sac (Lotus Court) would extend from Lotus Way and serve Lots 16 through 21. Lots 22 to 24 would front on Diana Avenue.

b. Sidewalks

There are no bicycle or pedestrian facilities within the project vicinity, other than sidewalks. Project implementation, therefore, would not impact bicycle or pedestrian facilities. As a part of the Conditions of Approval, the Engineering and Utilities Department is requiring sidewalks along all project frontages.

c. Park

The project plans include the development of a 0.27-acre (Parcel A) private park with a tot lot.

Approval of the Tentative Subdivision Map would allow the developer to record a Final Map that is in substantial compliance with the Tentative Subdivision Map upon meeting the Conditions of Approval of the Tentative Subdivision Map. Residential building allotments are considered exercised with the recordation of the Final Map.

5. **Findings**

Development Agreement

A Development Agreement has been proposed consistent with the RDSCS public benefit commitments. The terms and conditions agreed to during the competition have been incorporated into the site plan and included in the proposed Development Agreement.

Morgan Hill Municipal Code Section 18.116.040 (C), Consideration of proposed Development Agreements, requires that the Planning Commission make a recommendation to the City Council considering the following supportive reasoning:

- A. **Is consistent with the goals, objectives, policies, general land uses, and programs specified in the general plan and any applicable specific plan.**

As specified in the General Plan section of this report, the project would provide 24 residential units which is consistent with the General Plan. There have been no General Plan policy conflicts identified with the proposed project.

- B. **Is compatible with the uses authorized in the zoning district in which the real property is located.**

The proposed residential use is permitted within the RDM-7,000 zoning district and would be compatible with the surrounding residential and light industrial uses.

- C. **Duly considers city mitigation programs in effect at the time of execution of the agreement.**

The project would be subject to the payment of applicable impact fees and community benefit commitments as part of the RDCS process.

- D. **Will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood.**

The project's construction would adhere to state, local and federal laws. The project is residential housing that would include the normal daily operations of other residential sites.

- E. **Complies with the provisions of the California Environmental Quality Act.**

The project is subject to CEQA and an Initial Study/ Mitigated Negative Declaration has been prepared for the project.

- F. **Will not adversely affect the orderly development of property or the preservation of property values.**

The project will provide high quality architecture consistent with the City's Architectural Design Guidelines. The project will also be consistent with state and local laws.

Zoning Amendment

The project includes the establishment of a PD combining district which requires the approval of a Zoning Map Amendment.

Morgan Hill Municipal Code Section 18.114.040 requires that the Planning Commission make a recommendation to the City Council considering the following supportive reasoning for a Zoning Map Amendment:

- A. **The proposed amendment is consistent with the general plan and any applicable specific plan as provided by Government Code Section 65860.**

The project complies with the allowed density range for units on the site in accordance with the General Plan.

- B. **The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the city.**

The project is a housing project that would provide an opportunity for those seeking housing in the current housing market. The proposed deviations are slight and would allow the applicant to provide a better project in terms of additional bedrooms, additional living space, varied massing and architectural enhancements for a more distinctive look.

- C. **The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the zoning code and general plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large.**

The project is a residential housing development with lot sizes similar to the surrounding residential developments. The proposed circulation will provide connectivity and complete circulation patterns to adjoining neighborhoods.

Planned Development Combining District

The project includes the establishment of a PD combining district with PD Master Plan. Morgan Hill Municipal Code Section 18.30.050.H.5 requires that the Planning Commission make a recommendation to the City Council considering the following supportive reasoning for a PD Master Plan:

- A. **The proposed development is consistent with the general plan, zoning code and any applicable specific plan or area plan adopted by the city council.**

The proposed development is consistent with the policies established by the General Plan and Zoning Code.

- B. **The proposed development is superior to the development that could occur under the standards applicable in the existing zoning districts.**

The development will be of high design standards with varied and distinct architecture

and details.

- C. **The proposed project will provide a substantial public benefit as defined in Paragraph 8 (Substantial Public Benefit Defined) below. The public benefit provided shall be of sufficient value as determined by the planning commission to justify deviation from the standards of the zoning district that currently applies to the property.**

Several public benefits include dedicated open space (private park), off-site improvements along Diana Avenue and Weichert Drive for roadway connectivity consistency and safe circulation, and also additional dedicated ROW along Dakota Drive.

- D. **The site for the proposed development is adequate in size and shape to accommodate proposed land uses.**

The project site is 4.84-acres and will have a density of 4.95 dwelling units per acre. The size and shape of the site will accommodate the proposed residential and open space uses.

- E. **Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.**

The site fronts Diana Avenue and Lotus Way. Roadway extensions will be made on Dakota Drive, Juliann Way, and Weichert Drive. A new cul-de-sac will be constructed off Lotus Way. There are wet and dry utilities and infrastructure in the surrounding area that will support the project.

- F. **The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area.**

The project is compatible with the surrounding single-family residential uses and will not have a substantial adverse effect with conditions of approval and mitigation measures included.

Tentative Subdivision Map

Morgan Hill Municipal Code Section 17.20.090, Tentative Subdivision Map — Approval Conditions requires that the following finding to be made by the Planning Commission to adopt the Tentative Subdivision Map:

In approving or conditionally approving the Tentative Subdivision Map, the Planning Commission shall find that the proposed subdivision, together with its provisions for its design

and improvements, is consistent with applicable general or specific plans adopted by the City.

The Tentative Map has been designed consistent with the City's General Plan, considering neighborhood circulation patterns and providing future connections. Residential building allotments are available for the project.

Conclusion

The project has been found to be consistent with the General Plan, Zoning Code, RDCS, Subdivision Map Act, and CEQA. Staff recommends that the Planning Commission approve the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, and Tentative Subdivision Map, and recommend approval of the Zoning Map Amendment for a PD Combining District with PD Master Plan and the Development Agreement incorporating the RDCS public benefit commitments.

6. California Environmental Quality Act (CEQA)

An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project by Geier & Geier Consulting, Inc. dated July 2019 in conformance with the California Environmental Quality Act (CEQA). Impacts in the study include:

Trees

The arborist report prepared for the project (Attachment 13) identified eight ordinance-sized trees on the project site for removal: four coast live oaks and four non-native trees. The arborist report indicates that four of the eight trees are in poor condition and should be removed for safety reasons. The remaining four ordinance-sized trees would qualify for protection pursuant to Section 12.32.010.C of the Morgan Hill Municipal Code, and replacement planting is required at a one-to-one (1:1) ratio, subject to the approval of the Community Development Director (Section 12.32.070. C. of the Morgan Hill Municipal Code). The arborist's report recommends the implementation of a detailed Tree Protection Plan as a condition of project approval.

The project plans include a landscape plan that provides for the installation of both native and non-native plants. The proposed landscape plan includes ground cover such as lawn areas, shrubs, and trees that would be consistent with the landscape plantings found within adjoining residential developments. Plantings also include street trees to be located along Diana Avenue and front yard trees along the site's southern perimeter adjoining Diana Avenue. Landscape plantings would also extend into front yards and along the internal loop road on the site.

Noise

Exterior Noise Exposure: Proposed residences would be setback a minimum of 53 feet from the Diana Avenue centerline and 1,258 feet from the U.S. Highway 101 centerline. When measured noise levels are adjusted for distance, existing noise levels

at the most impacted proposed rear and side yards and minimum building setback would be 59 dBA Ldn at 53 feet from the Diana Avenue centerline and 57 dBA Ldn at 1,258 feet from the U.S. Highway 101 centerline. Under future traffic conditions, noise exposure is expected to increase to 60 dB DNL at the proposed residential property closest to Diana Avenue and 59 dBA Ldn at the proposed residential property closest to the U.S. Highway 101 freeway. Since these noise levels exceed 55 dBA Ldn, they are considered “conditionally acceptable” for residential uses and a detailed noise analysis was required (Attachment 14).

The detailed noise study by ELPA indicated that existing and future noise levels at all proposed residential properties (including rear and side yards) would not exceed the City’s 60-dBA exterior noise limit. No mitigation would be required.

Interior Noise Exposure: A 25-dB reduction would be achieved with a typical building shell and closed window condition. When this reduction is applied to the above exterior noise exposures at the minimum building setback locations under existing and future traffic conditions, interior noise levels would be 34 and 35 dBA Ldn, respectively, at the proposed residence located closest to Diana Avenue and 32 and 34 dBA Ldn, respectively, at the proposed residence closest to the U.S. Highway 101 freeway. Existing and future interior noise levels within all proposed residences would not exceed the City’s 45dBA interior noise limit. No mitigation would be required.

The IS/MND was circulated for 30-days from September 6, 2019 to October 7, 2019. A copy of the IS and MND are attached (Attachments 15 and 16). A Comment letter was received from the Native American Heritage Commission dated August 16, 2019 and a response has been prepared (Attachment 17).

A Mitigation Monitoring and Reporting Program (MMRP) has been prepared (Attachment 18) for the project which includes all measures required to reduce potentially significant environmental impacts to a less-than-significant level. In addition, the MMRP identifies the timing of implementation; the agency responsible for implementing the mitigation; and the agency responsible for monitoring the mitigation. The project results in no significant environmental impacts with the inclusion of Standard Mitigation Measures for Biological Resources (special status animal species – (Special Status Bats), Hazards and Hazardous Materials and Water Quality.

Community Engagement

The proposed project was publicly noticed (mailing to property owners within 300 feet of the project and newspaper legal noticing) for the minimum 10-day period and a sign was posted on the project site pursuant to the Planning Division Requirements.

LINKS/ATTACHMENTS:

1. CEQA MND Resolution
2. SD Resolution
3. ZA Resolution
4. DA Resolution

5. Development Agreement
6. Architecture Plans (Weblink)
7. Landscape Plans (Weblink)
8. Diana-Mana Deviations
9. PD Master Plan Justification Statement
10. RDCS Final Narrative
11. Tentative Map (Weblink)
12. Diana-Mana Lot Size Details
13. Tree Report (Weblink)
14. Noise Assessment (Weblink)
15. Initial Study (Weblink)
16. Mitigated Negative Declaration (Weblink)
17. Native American Heritage Commission Comment Letter (Weblink)
18. MMRP (Weblink)

RESOLUTION NO. 19-xx

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL ADOPTING THE MITIGATED NEGATIVE DECLARATION THAT WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE DIANA-MANA HANAIEI PROJECT (MONTECITO ESTATES) (APN 726-09-001 & 726-09-002)

WHEREAS, prior to the adoption of this Resolution, the Planning Division of the City of Morgan Hill prepared an Initial Study and a Mitigated Negative Declaration for the Diana-Mana Hanalei Project (Planning File No's. ZA2019-0006, DA2018-0003, SD2018-0006, EA2018-0023) in accordance with the requirements of the California Environmental Quality Act of 1970, as amended ("CEQA"), and state and local guidelines implementing CEQA; and

WHEREAS, the Diana-Mana Hanalei Project ("Project") analyzed under the Initial Study/Mitigated Negative Declaration consisted of the request to subdivide the property into 24 residential lots, and Planned Development Master Plan for property located on the northwest corner of the intersection of Diana Avenue and Lotus Way (APN: 726-09-001 & 726-09-002); and

WHEREAS, in connection with the approval of a project involving the preparation of an Initial Study/Mitigated Negative Declaration that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environment effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation; and

WHEREAS, the City of Morgan Hill is the lead agency on the Project, and the Planning Commission is the decision-making body for the proposed Project; and

WHEREAS, the Planning Commission has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the Project are, by this reference, incorporated into this Resolution as if fully set forth herein; and

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

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL AS FOLLOWS:

SECTION 1. THAT THE PLANNING COMMISSION does hereby make the following findings:

- (1) It has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon the Project;
- (2) The Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and consistent with state and local guidelines implementing CEQA; and
- (3) The Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City as lead agency for the Project. The Development Services Director of the Development Services Department at 17575 Peak Avenue, Morgan Hill, California 95037, is the custodian of documents and records of proceedings on which this decision is based.

SECTION 2. THAT THE PLANNING COMMISSION does hereby adopt the Mitigation Monitoring and Reporting Program prepared for the Project. The Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Development Services Department, Planning Division, located at 17575 Peak Avenue, Morgan Hill CA 95037 and (2) available for inspection by any interested person.

PASSED AND ADOPTED THIS 22nd DAY OF OCTOBER 2019, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

JENNA LUNA, Deputy City Clerk

JUAN MIGUEL MUNOZ MORRIS, Chair

A F F I D A V I T

We, _____, applicants, hereby agree to accept and abide by the terms and conditions specified in this resolution.

By: _____

Date: _____

RESOLUTION NO. 19-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A TENTATIVE SUBDIVISION MAP FOR A 24-LOT RESIDENTIAL SUBDIVISION ON A 4.84-ACRE SITE LOCATED NORTH OF THE INTERSECTION OF DIANA AVENUE AND LOTUS WAY (DIANA MANA HANAIEI PROJECT/MONTECITO ESTATES) (APN 726-09-001 AND 726-09-002)

WHEREAS, on October 9, 2018, Mana Hanalei, LLC submitted an application for a tentative subdivision map (SD2018-0006: Diana-Mana Hanalei) for the Montecito Estates project;

WHEREAS, such request was considered by the Planning Commission at its regular meeting of October 22, 2019;

WHEREAS, in accordance to the California Environmental Quality Act (CEQA) the City has completed an Initial Study to determine the project could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures are included in the project and therefore a Mitigated Negative Declaration has been prepared; 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 Tentative Subdivision Map, together with its provisions for its design and improvements, is consistent with the General Plan.

SECTION 3. The Tentative Subdivision Map as described herein is hereby approved. The proposed project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as Exhibit A, and by this reference incorporated herein, as well as all mitigation measures identified in the Mitigated Negative Declaration and Mitigation Monitoring Reporting Program incorporated by this reference as though fully set forth herein.

PASSED AND ADOPTED THIS 22nd DAY OF OCTOBER 2019, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

Attachment: SD Resolution [Revision 2] (2484 : Subdivision: Diana-Mana)

City of Morgan Hill
 Resolution No. 19-xx
 Page 2 of 28

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

JENNA LUNA, Deputy City Clerk

JUAN MIGUEL MUNOZ-MORRIS, Chair

A F F I D A V I T

We, _____, applicants, hereby agree to accept and abide by the terms and conditions specified in this resolution.

By: _____

Date: _____

Attachment: SD Resolution [Revision 2] (2484 : Subdivision: Diana-Mana)

EXHIBIT A

CONDITIONS OF APPROVAL

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

ACRONYMS:

MHMC – Morgan Hill Municipal Code

MHARH – Morgan Hill Architectural Review Handbook

PLANNING DIVISION

I. TIME LIMITS

- A. The Tentative Subdivision Map approval granted under this Resolution shall remain in effect for two years to October 22, 2021. 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/Planning Commission prior to the expiration date. **(MHMC 17.20.170; 17.24.110)**

II. SITE DEVELOPMENT

- A. **TREE PROTECTION:** Unless tree removal has been previously approved, all trees located within the project 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 Plan and shall be approved by the Development Services Director along with a landscape plan. All replacement trees shall be a minimum of 15-gallons in size.
- B. FINAL SITE DEVELOPMENT PLANS: Final site development plans shall be reviewed for conformance with Morgan Hill Municipal Code Section 18.108.040 and approved by the 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. 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.
- C. FINAL MAP: Recordation of a final map shall be in accordance with the number of building allotments granted through the Residential Development Control System (RDCS) for this project. Should a portion of the project's building allotment expire prior to final map approval, the number of lots on the final map shall be reduced to correspond to the remaining allotment. **(MHMC 18.156.150)**
- D. DUST, NOISE, VIBRATION, AND MATERIALS MANAGEMENT PLAN: A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. **(MHMC 18.76)**

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

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
8. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.
9. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
10. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
11. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
12. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.

13. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
 14. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
 15. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
 16. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
 17. Minimizing the idling time of diesel powered construction equipment to two minutes.
 18. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
 19. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
 20. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
 21. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.
- E. STREET NAMES: Street names, private or otherwise, used to identify building locations shall be submitted to the Planning Division for approval. Proposed street names shall comply with the Street Naming Policy approved by City Council (Res No. 4601)

III. LANDSCAPING

- A. Planting and irrigation working drawings: Detailed landscape planting and irrigation working drawings shall be submitted to the Development Services Department for approval prior to issuance of building permits as part of the master building site and improvement plans. Landscape plans for streets and landscape easements shall be part of the improvement plan submittal.

- B. Trees and shrubs minimum size: All trees within approved landscape plans shall be of a minimum 15 gallon size. All shrubs shall be minimum 5 gallon size unless otherwise approved by the Development Services Director.
- C. Maintenance of landscaping: The landscaping installed and accepted with this project shall be maintained on the site as per the approved plans. Any alteration or modification to the landscaping shall not be permitted unless otherwise approved by the Development Services Director or Design Review Board.
- D. 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. It is strongly suggested that the project's landscape designer refer to the City's Ordinance prior to beginning development of the project's landscape plans. **(MHMC 18.64)**

IV. HABITAT PLAN

- A. The approved project is covered under the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.
- B. Prior to issuance of building permits the project shall complete and submit a Habitat Plan Application Package. All fees must be paid prior to issuance building permits or grading permits. **(MHMC 18.132)**
- C. Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt). **(MHMC 18.132)**

V. OTHER CONDITIONS

- A. This Tentative Map approval is limited to the plan set dated June 3, 2019 and stamped July 16, 2019 on file SD2018-0006 with the Development Services Department. These documents, as amended by Design Review approval, 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. The final map shall be in substantial compliance with the approved tentative map as determined by the City Engineer and Development Services Director.
- B. Recordation of Map: The recordation of the final map shall not be completed until approval of the Design Review Permit is completed.

- C. Defense and Indemnity: Applicant agrees to defend, indemnify, and hold harmless the City of Morgan Hill, its officers, agents, employees, officials and representatives (Indemnitees) from and against any and all claims, actions, or proceedings arising from any suit for damages or for equitable or injunctive relief which is filed against City to attack, set aside, void or annul its approval of this 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.
- D. 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 your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.
- E. Signed copies of Resolution: Submit two (2) signed copies of Resolution 19-xx to the Planning Division prior to issuance of building permits.

- F. Signed Development Agreement: Prior to approval of the final map (or issuance of a building permit where no map is required), the property owner shall submit to the Planning Division two (2) signed notarized copies of the Development Agreement for the proposed project.

VI. BEST MANAGEMENT PRACTICES

A. Cultural Resources

1. **Discovery of Archaeological Resources.** If prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities, all work within 100 feet of the find shall halt until a qualified archaeologist and Native American representative can assess the significance of the find. If the find is determined to be potentially significant, the archaeologist, in consultation with the Native American representative, will develop a treatment plan that could include site avoidance, capping, or data recovery.
2. **Discovery of Human Remains.** In the event of the discovery of human remains during construction or demolition, there shall be no further excavation or disturbance of the site within a 50-foot radius of the location of such discovery, or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
3. The proposed project would be subject to the provisions of City of Morgan Hill Municipal Code Section 18.60.090. This section requires that if a project is located within or adjacent to a known archaeological site, the CEQA review shall consider potentially significant impacts on archaeological resources. If appropriate, mitigation measures shall be included. in addition to the standard conditions identified in subsection B of Section 18.60.090. Subsection B stipulates that if the project is not located within or adjacent to a known archaeological site, then the project applicant has the option to complete an archaeological survey of the property to determine the appropriate mitigation to be used as conditions of project approval or comply with the Standard Conditions of Approval which shall conclusively reduce potentially significant impacts to less than significant level.

B. Biological Resources

1. General construction activities and the removal of trees could impact nesting birds. To the extent practicable, vegetation removal shall be performed from September 1 through February 28 to avoid the general nesting period for birds. If tree removal cannot be performed during this period, preconstruction surveys for nesting birds shall be conducted by a qualified wildlife biologist no more than 14 days prior to the start of vegetation removal grading or other construction activities.
2. If vegetation removal or other construction or operational activities are not started within 14 days of the survey, another survey shall be required. The survey area shall include all of the construction site and staging areas as well as areas within 150 feet of the project site. In the event that an active nest is discovered in the areas to be cleared and or developed or in habitats within 150 feet of the proposed activities vegetation removal and construction shall be postponed for at least two weeks or until a wildlife biologist has determined that the young have fledged and the nest is vacated and there is no evidence of a second nesting attempt.
3. Prior to the removal of mature trees or the demolition or renovation of structures, the measures outlined below shall be performed.
 - a. A pre-construction survey shall be conducted by a qualified biologist to identify suitable bat roosting sites.
 - b. Any trees or structures determined to support or potentially support maternal roosting sites may only be removed or demolished after coordination with the CDFW and/or the USFWS. Passive exclusion of roosting bats will be required and this may only be performed during the non-breeding season (i.e., between October 1 and March 30).
 - c. Any trees or structures determined to provide suitable bat day or night roosting sites shall be identified and marked on site plans. Such roosting sites include snags, rotten stumps, and decadent trees with broken limbs, exfoliating bark, cavities, openings leading to interior portions of any structures. If no suitable roost sites or evidence of bat roosting are identified, impact minimization measures are not warranted. If suitable roosting sites or evidence of bat roosting are identified, the following measures shall be conducted:
 - i. A qualified biologist shall survey suitable roost sites immediately prior to the removal or significant pruning of any of the larger trees, or demolition or significant renovation of any structures.
 - ii. If the project biologist identifies suitable day or night roost sites or evidence of bat occupation, the following steps shall

be followed to discourage use of the sites by bats and to ensure that any bats present are able to safely relocate.

For trees:

- Tree limbs smaller than 7.6 cm (3 in) in diameter shall be removed and any loose bark should be peeled away.
- Any competing limbs that provide shelter around the potential roost site shall be removed to create as open of an area as possible.
- The trees shall then be undisturbed for 48 hours to allow any bats using the tree/snag to find another roost during their nocturnal activity period.
- The project biologist shall re-survey the trees a second time 48 hours after trimming.
- If no bats are present, work may proceed.
- If bats remain on-site, additional measures shall be prescribed by the biologist.

For structures:

- Depending on the location of potential roost sites and the nature of bat occupation, partial dismantling of a suspect structure may be performed to discourage use by bats. Partial dismantling may consist of the removal of siding, roof sections, and roof gables to permit air flow and exposure to sunlight. This work shall be performed under the supervision and direction of a qualified biologist.
- The project biologist shall re-survey the structures a second time 48 hours after performance of the partial dismantling work.
- If no bats are present, work may proceed.
- If bats remain on-site, additional measures shall be prescribed by the biologist.

C. Noise & Vibration

1. Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for homes throughout the site, so that windows could be kept closed at the occupant's discretion to control interior noise and achieve the interior Lmax and Ldn noise standards.

2. Provide sound rated windows and doors to maintain interior noise levels at acceptable levels. Preliminary calculations made based on the data contained in the conceptual design plans indicate that sound-rated windows and doors with a sound transmission class rating of STC 38 to 43 would be sufficient to control maximum instantaneous noise levels to 50 dBA Lmax in bedrooms, 55 dBA Lmax in other habitable rooms, and to also achieve the 45 dBA Ldn interior noise standard. Additional treatments may include, but are not limited to, sound rated wall construction, acoustical caulking, insulation, acoustical vents, etc. Large windows and doors should be oriented away from the railroad where possible. Bedrooms should be located away from the UPRR.
3. Confirm the final specifications for noise insulation treatments during final design of the project, based on the best available data regarding future usage assumptions for the UPRR. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit. The following standard conditions shall be included in the project:
 - a. Construction activities shall be limited to the hours between 7:00 a.m. and 8:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays. No construction activities should occur on Sundays or federal holidays (Consistent with Section 8.28.040 of the Morgan Hill Municipal Code).
 - b. Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - c. Locate stationary noise generating equipment (e.g. rock crushers, compressors) as far as possible from adjacent residential receivers.
 - d. Acoustically shield stationary equipment located near residential receivers with temporary noise barriers or recycled demolition materials.
 - e. Utilize "quiet" air compressors and other stationary noise sources where technology exists.
 - f. The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
 - g. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad

muffler, etc.) and will require that reasonable measures be implemented to correct the problem.

D. Air Quality

1. Include basic measures to control dust and exhaust during construction. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less than significant level. The contractor shall implement the following best management practices that are required of all projects:
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
 - e. 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.
 - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - h. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

E. Hydrology & Water Quality

1. The project sponsor shall determine the location of the site's water well, if present, prior to the start of project construction. The applicant shall retain a licensed well driller to destroy or abandon the water well at the project site in accordance with the standards specified in Santa Clara Valley Water District Ordinance 90-1 and the California Water Well Standards developed by the California Department of Water Resources. Documentation of appropriate disposal shall be submitted to the City of Morgan Hill Building Inspection Department prior to issuance of a demolition permit. (http://www.water.ca.gov/groundwater/well_info_and_other/california_well_standards/well_standards_content.html).
2. In order to be consistent with the City's requirements for storm runoff control, the proposed project design would need to include the development of a storm water detention basin or other drainage control structures on the subject property. The storm drainage facilities proposed for the project would need to be consistent with provisions the City's Storm Drainage System Master Plan and the stormwater-related conditions of project approval. The incorporation of the Stormwater Conditions for construction activities, post-construction operation of the project, and LID would reduce the potentially significant impacts of the project on stormwater quality to less than significant levels.
3. The project shall comply with the requirements of the Municipal Regional Permit as well as other local, state, and federal requirements. Specifically, the project shall comply with provision C.3 of the MRP, which provides enhanced performance standards for the management of stormwater for new development.
4. The project shall comply with all City of Morgan Hill ordinances, policies, and processes regarding the construction treatment of stormwater runoff. Specifically, a Stormwater Management Plan (SWMP) will be developed prior to issuance of building permits for project construction, to ensure compliance with City of Morgan Hill and MRP requirements. The SWMP will meet the criteria for stormwater protection outlined in the City's Environmental Compliance Program.
5. Construction BMPs shall be implemented for reducing the volume of runoff and pollution in runoff to the maximum extent practicable during site excavation, grading, and construction. All measures shall be included in the project's SWMP and printed on all construction documents, contracts, and project plans. These would include:
 - a. Restrict grading to the dry season or meet City requirements for grading during the rainy season.
 - b. Use effective, site-specific erosion and sediment control methods during the construction periods. Provide temporary cover of all disturbed surfaces to

help control erosion during construction. Provide permanent cover as soon as is practical to stabilize the disturbed surfaces after construction has been completed.

- c. Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff. Cover stockpiles with secure plastic sheeting or tarp.
- d. Implement regular maintenance activities such as sweeping driveways between the construction area and public streets. Clean sediments from streets, driveways, and paved areas on-site using dry sweeping methods. Designate a concrete truck washdown area.
- e. Dispose of all wastes properly and keep site clear of trash and litter. Clean up leaks, drips, and other spills immediately so that they do not contact stormwater.
- f. Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the project area from sedimentation with filter fabric and sand or gravel bags.

F. Hazards & Hazardous Materials

1. The project sponsor, working with the City of Morgan Hill and County of Santa Clara Household Hazardous Waste program, shall implement a Buyer Education Program for Household Hazardous Waste, providing materials and/or direction to sources of information, (e.g. <https://www.morgan-hill.ca.gov/432/Household-Hazardous-Waste>) to educate project buyers about the identification of household hazardous wastes, environmental hazards associated with mishandling of the wastes, appropriate disposal methods, and how to make an appointment for disposal.
2. Prior to demolition of the existing buildings at the project site, the project applicant shall require that the contractor(s) have a hazardous building materials survey completed by a Registered Environmental Assessor or a registered engineer. This survey shall be completed prior to any demolition activities associated with the project. If any friable asbestos-containing materials or lead-containing materials are identified, adequate abatement practices, such as containment and/or removal, shall be implemented in accordance with applicable laws prior to demolition. Specifically, asbestos abatement shall be conducted in accordance with Section 19827.5 of the California Health and Safety Code, as implemented by the Bay Area Air Quality Management District, as well as 8 CCR Section 1529 and Sections 341.6 through 341.14, as implemented by Cal/OSHA. Lead-based paint abatement shall be conducted in accordance with Cal/OSHA's Lead in Construction Standard.

Any PCB-containing equipment, fluorescent light tubes containing mercury vapors, and fluorescent light ballasts containing DEHP shall also be removed and legally disposed of in accordance with applicable laws including 22 CCR Section 66261.24 for PCBs, 22 CCR Section 66273.8 for fluorescent lamp tubes, and 22 CCR Division 4.5, Chapter 11 for DEHP.

G. Geology & Soils

1. As a Standard Condition of Approval, the project applicant would be required to implement an erosion control plan. The proposed erosion control measures would include use of fiber rolls or silt fences along the perimeter of all proposed private drives, installation of a sediment barrier at the site's principal storm drain inlet, provision of gravel bag check dams on the proposed public street, and hydroseeding of designated areas.
2. As a Standard Condition of Approval, the project applicant is required to prepare a geotechnical engineering report, which includes soil classifications and foundation design recommendations in conformance with the CBSC. The geotechnical investigation was completed in response to this requirement and recommends use of post-tensioned slab-on-grade foundations to minimize the adverse effects of expansive soils.

ENGINEERING CONDITIONS

The following conditions shall apply to the project/application.

1. The project has made commitments in the 2017 Residential Development Control System (RDCS) project application. Prior to submitting any improvement plans, the Developer shall meet with the Land Development Engineering Division to go over the RDCS commitments to be addressed. Part of the RDCS work shall include obtaining the right of way frontage of APN 726-09-004 along the Dakota Drive frontage and improving the balance to widen Dakota Drive.
2. The right of way frontage of APN 726-09-004 shall record before or concurrently with the Final Map.
3. Weichert Drive shall not be re-named; Weichert Drive shall extend into the intersection to lot 1, with lots 2 and 3 having the Weichert Address; revised all sheets as needed. NOTE: Lot 1 shall have the Julian Way address.

II. GENERAL

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

records are available for inspection during normal business hours. **(MHMC 3.56.010; 3.56.030; 3.56.050)**

III. STREET IMPROVEMENTS

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

IV. SANITARY SEWER SYSTEM

- A. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on the proposed public street(s) or private street(s)/drive aisle(s). The sanitary collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye-branches and laterals, and separate sewer taps to each lot. These are to be installed by the developer. **(MHMC**

13.20.355; 17.32.020 C; CMH Sewer System Master Plan; CMH Design Standards and Standard Details for Construction)

- B. All existing and future sewer lines shall be tied into the City's system and existing septic systems shall be abandoned in accordance with City requirements. **(MHMC 13.24.060; 17.32.20 C)**

V. STORM DRAIN SYSTEM

- A. A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the Director of Public Works. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. **(MHMC 17.32.020 B; 17.32.090; CMH Design Standards and Standard Details for Construction)**
- B. The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Site Review plans. All storm drain improvements shall be constructed to the satisfaction of the Director of Public Works. **(MHMC 17.32.020 A & B)**
- C. Collection system shall be designed to be capable of handling a 10-year storm without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity. Streets shall be designed to carry a 100-year storm. Items of construction shall include, but not be limited to installation of storm line extension on proposed public street(s), surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre development flows. **(MHMC 17.32.020 B; 18.74.440; CMH Design Standards and Standard Details for Construction; CMH Storm Drainage System Master Plan)**
- D. Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the Director of Public Works.
1. Storm drain calculations to determine detention/retention pond sizing and operations.
 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
 3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.
- (CMH Design Standards and Standard Details for Construction)**
- E. BMP Tree protection shall be part of the SWPPP inspections.

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

G. NPDES GENERAL PERMIT SITE SWPPP INSPECTIONS AND COMPLIANCE:

1. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP or RCE)**.
2. SWPPP Inspections shall occur weekly during the rainy season (September 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 address immediately.

8. Other non-compliance issues need to be addressed within a 24 hour period.
9. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow up inspection.

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

VI. WATER SYSTEM

- A. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the Director of Public Works. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the Director of Public Works and dedicated to the City. **(MHMC 17.32.020 A & D; CMH Design Standards and Standard Details for Construction; CMH Water System Master Plan)**
- B. Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD) Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.
- C. Installation of water line extension on the proposed public streets and/or private streets. **(MHMC 17.32.020 A & D; CMH Water System Master Plan)**
- D. Provide separate water services and meters for each lot. These are to be installed by developer. **(MHMC 17.32.020 D)**

VII. OTHER CONDITIONS

- A. The owner shall dedicate all necessary utility easements. **(MHMC 12.02.080 D; 17.28.010 A)**
- B. The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the Director of Public Works. **(MHMC 17.32.020 E.1)**
- C. The final map on all major subdivision (5 or more lots) shall be approved by the City Council prior to issuance of a grading permit. For minor subdivision (4 lots or less), the final map shall be signed by the City Engineer and the Planning Commission Secretary prior to issuance of a grading permit. **(MHMC 17.20.390; 17.24.210)**

- D. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Homeowner's Association.
- E. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**
- F. Prior to the approval of any Building Permit for grading activity, the developer shall schedule a preconstruction meeting with the Public Works Inspection Division with the following project team members:
 - 1. Civil Engineer of record.
 - 2. Geotechnical Engineer of record.
 - 3. Third Party QSD/QSP SWPPP Inspector.
 - 4. General Contractor.
 - 5. Sub Contractors.

VIII. NPDES WATER QUALITY STORMWATER MANAGEMENT DEVELOPMENT STANDARDS FOR ALL PROJECTS

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

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hydromod_charette_index.shtml).

A copy of the guidance manual can be obtained through the Department of Public Works internet site. Project shall provide Stormwater Control Plan Checklist and applicable calculations per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements. Project shall meet the applicable requirements of the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements:

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

4. Performance Requirement 4: Peak Management

- B. Peak Storm Water Runoff Discharge Rates** - Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows.
- C. Conserve Natural Areas** - If applicable, the following items are required and must be implemented in the site layout during the subdivision design and approval process, consistent with applicable General Plan and Local Area Plan policies:
1. Concentrate or cluster Development on portions of a site while leaving the remaining land in a natural undisturbed condition.
 2. Limit clearing and grading of native vegetation at a site to the minimum amount needed to build lots, allow access, and provide fire protection.
 3. Maximize trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.
 4. Promote natural vegetation by using parking lot islands and other landscaped areas. Preserve riparian areas and wetlands.
- D. Minimize Storm Water Pollutants of Concern** - Storm water runoff from a site has the potential to contribute oil and grease, suspended solids, metals, gasoline, pesticides, and pathogens to the storm water conveyance system. The development must be designed so as to minimize, to the maximum extent practicable, the introduction of pollutants of concern that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the storm water conveyance system as approved by the building official. Pollutants of concern consist of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water, elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bio-accumulate in organisms therein, or the detectable inputs of the pollutant are at concentrations or loads considered potentially toxic to humans and/or flora and fauna.

In meeting this specific requirement, “minimization of the pollutants of concern” will require the incorporation of a BMP or combination of BMPs best suited to maximize the reduction of pollutant loadings in that runoff to the Maximum Extent Practicable. Those BMPs best suited for that purpose are those listed in:

1. [California Stormwater Quality Association \(CASQA\) Handbook: BMPs for New Development and Redevelopment](#)
 2. [Bay Area Stormwater Management Agencies Association \(BASMAA\) Design Guidance Manual for Stormwater Quality Protection: Start at the Source 1999](#)
 3. [California Storm Water Best Management Practices Handbooks](#)
 4. [Caltrans Storm Water Quality Handbook: Planning and Design Staff Guide](#)
- E. **Provide Storm Drain System Stenciling and Signage** - Storm drain stencils are highly visible source controls that are typically placed directly adjacent to storm drain inlets. The stencil contains a brief statement that prohibits the dumping of improper materials into the storm water conveyance system. Graphical icons, either illustrating anti-dumping symbols or images of receiving water fauna, are effective supplements to the anti-dumping message. All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: "NO DUMPING – DRAINS TO CREEK") and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area. Legibility of stencils and signs must be maintained.
- F. **Design Standards for Structural or Treatment Control BMPs** - The post-construction treatment control BMPs shall incorporate, at a minimum, either a volumetric or flow based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) storm water runoff:
1. Volumetric Treatment Control BMP
 - a. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or
 - b. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or
 - c. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.
 2. Flow Based Treatment Control BMP

- a. The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area; or
 - b. The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.
- G. Stormwater Runoff Management Plan (SWRMP) required** - The stormwater runoff management plan shall include sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures (post construction BMPs) proposed for managing stormwater runoff.
1. The stormwater runoff management plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved stormwater runoff management plan.
 2. The chief engineer or designee may require a developer to provide a signed certification from the civil engineer responsible for preparing the stormwater runoff management plan that all stormwater best management practices have been designed to meet the requirements of this chapter.
 3. Each certifying civil engineer shall establish to the city's satisfaction that such person has been trained on the design of stormwater quality best management practices not more than three years prior to the certification signature date.
 4. Qualifying training shall be conducted by an organization with stormwater quality management expertise, such as a university, the Bay Area Stormwater Management Agencies Association, the American Society of Civil Engineers, the American Public Works Association, or the California Water Environment Association.
- H. Stormwater BMP operation, maintenance, and replacement responsibility**
1. All on-site stormwater management facilities shall be operated and maintained in good condition and promptly repaired/replaced by the property owner(s), an owners' or homeowners' association or other legal entity approved by the city.
 2. Any repairs or restoration/replacement and maintenance shall be in accordance with city-approved plans.
 3. The property owner(s) shall develop a maintenance schedule for the life of any stormwater management facility and shall describe the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be included with the approved stormwater runoff management plan.

- I. **Stormwater BMP operation and Maintenance Agreement (SWBOMA) required** - Improper maintenance is one of the most common reasons why water quality controls will not function as designed or which may cause the system to fail entirely. It is important to consider who will be responsible for maintenance of a permanent BMP, and what equipment is required to perform the maintenance properly.
 1. Prior to the issuance of any building permit requiring stormwater management BMPs, the owner(s) of the site shall enter into a formal written stormwater BMP operation and maintenance agreement with the city. The city shall record this agreement, against the property or properties involved, with the County of Santa Clara and it shall be binding on all subsequent owners of land served by the storm water management treatment BMPs (City standard STORMWATER BMP OPERATION AND MAINTENANCE AGREEMENT to be provided by Public Works Engineering).
 2. The stormwater BMP operation and maintenance agreement shall require that the BMPs not be modified and BMP maintenance activities not alter the designed function of the facility from its original design unless approved by the city prior to the commencement of the proposed modification or maintenance activity.
 3. The stormwater BMP operation and maintenance agreement shall provide that in the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the city shall have the authority to perform maintenance and/or repair work and to recover the costs from the owner.
- 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 **Register Civil Engineer (RCE)**.
 2. Unless otherwise required by the chief engineer or designee, stormwater facility inspections shall be done at least twice per year (April 15th and September 15th) by the RCE. Written records shall be kept of all inspections and shall include, at minimum, the following information:
 - a. Site address;
 - b. Date and time of inspection;
 - c. Name of the person conducting the inspection;
 - d. List of stormwater facilities inspected;
 - e. Condition of each stormwater facility inspected;

- f. Description of any needed maintenance or repairs; and
 - g. As applicable, the need for site re-inspection.
3. Upon completion of each inspection, an inspection report shall be submitted to Public Works 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.

HOUSING CONDITIONS

1. Project has committed to pay 110% of the baseline Affordable Housing contribution which equates to \$38,017.10 per unit. Fee is subject to change based on actual livable square footage amount and Housing In Lieu fee amount in place at the time of permit issuance. This fee will be paid prior to final Blue Card signoff per unit.

BUILDING CONDITIONS

1. A separate submittal to the Building Department will be required to obtain building permits. The project will be reviewed for compliance with the California Code of Regulations and City of Morgan Hill Municipal Code during the building permit review process.
2. Park elements need to be accessible complying to California Building Code 11B

FIRE CONDITIONS

1. **Preliminary Review Only.** The requirements and conditions stated in this review are preliminary and are intended to be used for the purposes of project planning. An official Fire Department review of the project will be conducted upon receipt of a complete plan submittal application that clearly shows all intended grading, demolition, construction or building modifications.

2. **Proposal limited to..** Review of this Development proposal is limited to acceptability of site access as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
3. **Fire Apparatus (Engine) Access Roads Required.** Prior to the commencement of combustible construction, an access roadway with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet, 6 inches shall be provided, with minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%, unless otherwise approved in writing by the Fire Marshal. Installations shall conform to the City of Morgan Hill Standard Details and Specifications 11-B. **(CFC section 503 as amended by MHMC 15.44.140)**
4. **Fire Hydrant Location Identifier.** Prior to project final inspection, the general contractor shall ensure that an approved ("Blue Dot") fire hydrant location identifier has been placed in the roadway, as directed by the fire department.
5. **Fire Lane Marking Required.** Provide marking for all roadways within the project. Markings shall be per fire department specifications. Installations shall also conform to Local Government Standards and the City of Morgan Hill Standard Details and Specifications 11-F. **(CFC section 503)**
6. **Automatic Fire Sprinkler System Required (SFD).** New homes located within the hazardous fire area, and in the non hazardous fire area homes shall be protected throughout by an approved, automatic fire sprinkler system, hydraulically designed per National Fire Protection Association (NFPA) Standard #13D (CFC Chapter 9 as amended by MHMC 15.44.170)

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF A ZONING MAP AMENDMENT FOR AN RDM-7,000/ PLANNED DEVELOPMENT COMBINING DISTRICT AND MASTER PLAN FOR A 24-UNIT RESIDENTIAL DEVELOPMENT ON A 4.84-ACRE SITE LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF DIANA AVENUE AND LOTUS WAY (DIANA MANA HANAIEI PROJECT/MONTECITO ESTATES) (APN 726-09-001 & 726-09-002).

WHEREAS, Mana Hanalei, LLC proposes to develop the property (Montecito Estates) located on the northwest corner of the intersection of Diana Avenue and Lotus Way, identified by Assessor Parcel Number(s) 726-09-001 and 726-09-002, with a single-family residential project with 24 single-family dwelling units on a 4.84-acre site;

WHEREAS, through the RDSCS process, the Planning Commission adopted Resolution No. 18-13 on May 22, 2018, awarding twenty-three (23) Fiscal Year 2019-2020 residential building allotments;

WHEREAS, the City Council adopted Resolution No. 18-050 on June 20, 2018, reaffirming the distribution of RDSCS allotments;

WHEREAS, said development requires establishment of a Planned Development combining district which requires the approval of a Zoning Map Amendment and the establishment of a Planned Development Master Plan;

WHEREAS, Section 18.114.040 requires that the Planning Commission make a recommendation to the City Council regarding the Zoning Map Amendment to establish the Planned Development combining district based on supportive reasoning;

WHEREAS, Section 18.30.050.H.5 requires that the Planning Commission make a recommendation to the City Council regarding the Planned Development Master Plan based on findings and supportive reasoning;

WHEREAS, such request was considered by the Planning Commission at its regular meeting of October 22, 2019; 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 proposed amendment is consistent with the general plan and any applicable specific plan as provided by Government Code Section 65860.

The project complies with the allowed density range for units on the site in accordance with the General Plan.

SECTION 2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the city.

The project is a housing project that would provide an opportunity for those seeking housing in the current housing market.

SECTION 3. The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the zoning code and general plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large.

The project is a residential housing development with lot sizes similar to the surrounding residential developments. The proposed circulation will provide connectivity and complete circulation patterns to adjoining neighborhoods.

SECTION 4. The proposed development is consistent with the general plan, zoning code and any applicable specific plan or area plan adopted by the city council.

The proposed development is consistent with the policies established by the General Plan and Zoning Code.

SECTION 5. The proposed development is superior to the development that could occur under the standards applicable in the existing zoning districts.

The development will be of high design standards with varied and distinct architecture and details.

SECTION 6. The proposed project will provide a substantial public benefit. The public benefit provided shall be of sufficient value as determined by the planning commission to justify deviation from the standards of the zoning district that currently applies to the property.

Several public benefits include dedicated open space (private park), off-site improvements along Diana Avenue and Weichert Drive for roadway connectivity consistency and safe circulation, and additional dedicated ROW along Dakota Drive.

SECTION 7. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.

The project site is 4.84-acres and will have a density of 4.95 dwelling units per acre. The size and shape of the site will accommodate the proposed residential and open space uses.

SECTION 8. Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.

The site fronts Diana Avenue and Lotus Way. Roadway extensions will be made on Dakota Drive, Juliann Way, and Weichert Drive. A new cul-de-sac will be constructed off Lotus Way. There are wet and dry utilities and infrastructure in the surrounding area that will support the project.

SECTION 9. The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area

The project is compatible with the surrounding single-family residential uses and will not have a substantial adverse effect with conditions of approval and mitigation measures included.

SECTION 10. Planning Commission recommends approval of Zoning Amendment application, ZA2019-0006: Diana-Mana Hanalei.

PASSED AND ADOPTED THIS 22nd DAY OF OCTOBER 2019, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

JENNA LUNA, Deputy City Clerk

JUAN MIGUEL MUNOZ-MORRIS, Chair

Attachment: ZA Resolution [Revision 2] (2484 : Subdivision: Diana-Mana)

RESOLUTION NO. 19-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING CITY COUNCIL APPROVAL OF A DEVELOPMENT AGREEMENT DA2018-0003: DIANA-MANA HANAIEI (MONTECITO ESTATES) FOR A 24-LOT RESIDENTIAL SUBDIVISION ON A 4.84-ACRE SITE LOCATED ON THE NORTHWEST CORNER OF DIANA AVENUE AND LOTUS WAY (APN 726-09-001 & 726-09-002)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78 (now Chapter 18.156) of the Morgan Hill Municipal Code, awarded 23 building allotments for application RDCS2017-0015: Diana-Mana Hanalei for FY2019/2020; and

WHEREAS, the City Council of the City of Morgan Hill enacted Ordinance number 1594, as revised by Ordinance Number 2277, establishing a procedure for processing Development Agreements in Chapter 18.116 for projects receiving allotments through the Residential Development Control System, Chapter 18.156, of Title 18 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, said Development Agreement request was considered by the Planning Commission at its regular meeting of October 22, 2019; 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, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL THAT:

SECTION 1. The Planning Commission recommends that the City Council approve the Development Agreement (application DA2018-0003: Diana-Mana Hanalei) based on the determination and supporting reasoning described below as required by Morgan Hill Municipal Code Section 18.116.050(C).

SECTION 2. The Development Agreement is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan.

The project would subdivide the property into 24 residential lots, with 24

new single-family dwelling unit. There have been no General Plan policy conflicts identified with the proposed project.

SECTION 3. The Development Agreement is compatible with the uses authorized in the zoning district in which the real property is located.

The proposed residential use is permitted within the RDM-7,000 zoning district and would be compatible with the surrounding residential uses.

SECTION 4. The Development Agreement duly considers city mitigation programs in effect at the time of execution of the agreement.

The project would be subject to the payment of applicable impact fees and community benefit commitments as part of the RDCS process.

SECTION 5. The Development Agreement will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood.

The project's construction would adhere to state, local and federal laws. The project is residential housing that would include the normal daily operations of other residential sites.

SECTION 6. The Development Agreement complies with the provisions of the California Environmental Quality Act and city's procedures adopted pursuant thereto.

The City has completed an Initial Study and a Mitigated Negative Declaration, along with a Mitigation Monitoring and Reporting Program, which the Planning Commission considered and adopted as part of the Tentative Subdivision Map approval.

SECTION 7. The Development Agreement will not adversely affect the orderly development of property or the preservation of property values.

The project will provide high quality architecture consistent with the City's Architectural Design Guidelines. The project will also be consistent with state and local laws.

PASSED AND ADOPTED THIS 22nd DAY OF OCTOBER 2019, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

JENNA LUNA, Deputy City Clerk

JUAN MIGUEL MUNOZ-MORRIS, Chair

Attachment: DA Resolution [Revision 2] (2484 : Subdivision: Diana-Mana)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Morgan Hill
Development Services Department
17575 Peak Avenue
Morgan Hill, CA 95037

RECORDING FEES EXEMPT
PURSUANT TO GOVERNMENT
CODE SECTION 27383

DEVELOPMENT AGREEMENT

[DA#2018-0003: Diana – Mana]

BY AND BETWEEN

THE CITY OF MORGAN HILL

AND

MONTECITO ESTATES MH LLC

REGARDING

THE DIANA-MANA HANAIEI RESIDENTIAL DEVELOPMENT PROJECT

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

RESIDENTIAL DEVELOPMENT AGREEMENT
 BY AND BETWEEN
 THE CITY OF MORGAN HILL
 AND
 MONTECITO ESTATES MH LLC
 REGARDING THE
 DIANA-MANA HANALEI PROJECT

This Development Agreement ("**Agreement**") is entered into on the below-stated "**Effective Date**" by and between the City of Morgan Hill, a California municipal corporation, (hereinafter "**City**"), and Montecito Estates MH LLC, a California limited liability company, and its successor and assigns (hereinafter, collectively, "**Developer**"), pursuant to Section 65864 *et seq.* of the Government Code of the State of California and City's police powers. City and Developer are, from time to time, also hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**."

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other considerations, the value and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 *et seq.* ("**Development Agreement Statute**"), which regulates development agreements with any person having a legal or equitable interest in real property providing for the development of that property and establishes certain development rights in the property. In accordance with the Development Agreement Statute, and by virtue of its police powers, City has the authority to enter into development agreements, and has reflected that authority in its Morgan Hill Municipal Code (Chapter 18.116 *et seq.*) ("**Enabling Ordinance**"). This Agreement has been drafted and processed pursuant to the Development Agreement Statute and the Enabling Ordinance.

B. Developer currently has a legal and/or equitable interest in the Property.

C. Developer proposes to plan, develop, construct, operate and maintain the Project on the Property (as such terms are defined herein).

D. As of the Effective Date, various land use regulations, allotments, entitlements, grants, permits and other approvals have been adopted, issued, and/or granted by City relating to the Project (collectively "**Existing Approvals**"), including without limitation, all of the following:

1. 23 FY 2019-20 Building Allotments Approved Pursuant to RDCS Application: RDCS2017-0015, and conditions attached to the award of such allotments;
2. **Environmental Assessment Application EA 2018-0004;**
3. **Zoning Amendment Application ZA 2019-0006;**
4. **Tentative Subdivision Map Application SD2018-0006;**

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

The Existing Approvals are more particularly described in the Administrative Initial Study/Mitigated Negative Declaration for the Diana-Mana Hanalei or “Montecito Estates” project and the resolutions adopting the Existing Approvals.

E. For the reasons recited herein, Developer and City have determined that the Project is the type of development for which this Agreement is appropriate. This Agreement will help to eliminate uncertainty in planning, provide for the orderly development of the Project consistent with the planning goals, policies, and other provisions of the City’s General Plan and City’s Municipal Code, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.

F. On May 22, 2018, the Morgan Hill Planning Commission awarded allotments for the Project and on June 20, 2018, the City Council reaffirmed and approved the distribution as set forth in the Developer’s application for residential allotments pursuant to Chapter 18.156 (“**Residential Development Control System**”, or “**RDCS**”) of the Morgan Hill Municipal Code (“**Code**”). This Agreement serves to secure in a permanent and enforceable manner the public benefits and commitments included in the Developer’s application as required under Section 18.156.120.J of the Code.

G. On October 22, 2019, following a duly noticed and conducted public hearing, the Planning Commission of the City (“**Planning Commission**”) considered the Development Agreement for recommendation to the City Council, and determined that the Development Agreement is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan; is compatible with the uses authorized in the zoning district in which the real property is located; duly considers City mitigation programs in effect at the time of execution of the agreement; will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood; complies with the provisions of the California Environmental Quality Act and City’s procedures adopted pursuant thereto; and will not adversely affect the orderly development of property or the preservation of property values.

ARTICLE 1

ADMINISTRATION

1.01 Effective Date. Following a duly noticed and conducted public hearing, the Morgan Hill City Council (“City Council”) introduced an ordinance (“**Ordinance**”), accepting the recommendation of the Planning Commission, finding that this Agreement’s provisions are consistent with the General Plan and any applicable specific plan, approving this Agreement, and directing this Agreement’s execution by City. The City adopted the Ordinance, and the Ordinance became effective thirty (30) days later. The “Effective Date” in this Agreement shall be the date that the Ordinance became effective.

1.02 Definitions.

(a) The following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

- (1) “**Allotments**” shall mean those residential allotments awarded Developer through the Residential Development Control System
- (2) “**Applicable Law**” shall have that meaning set forth in Section 2.01(a) of this Agreement.

- (3) “**Commitments**” shall have that meaning set forth in Section 2.04(a) of this Agreement.
- (4) “**Director**” shall mean the Director of Development Services, and his or her designee.
- (5) “**Existing Approvals**” shall have that meaning set forth in paragraph D of the Recitals of this Agreement.
- (6) “**Existing City Laws**” shall mean all City ordinances, resolutions, rules, regulations, guidelines, motions, practices and official policies governing land use, zoning and development, RDCS, permitted uses, density and intensity of use, maximum height, bulk and size of proposed buildings, and other City land use regulations in force and effect on the Effective Date of this Agreement.
- (7) “**Impact Fees**” shall mean those fees imposed so that developments bear a proportionate share of the cost of public facilities and service improvements that are reasonably related to the impacts and burdens of the Project, adopted pursuant to Morgan Hill Municipal Code Chapter 3.56 and California Government Code Section 66001 *et seq.*
- (8) “**Legal Effect**” shall mean the ordinance, resolution, permit, license or other grant of approval that has been adopted by City and has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction, and all applicable administrative appeal periods and statutes of limitations have expired.
- (9) “**New City Laws**” shall mean any and all City ordinances, resolutions, orders, rules, official policies, standards, specifications and other regulations, whether adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not a Subsequent Approval, that takes “**Legal Effect**” after the Effective Date of this Agreement, and that applies City wide.
- (10) “**Project**” means the development containing 24 units in a residential subdivision project, as more particularly described in the RDCS Application RDCS2017-0015 as described in Exhibit B. Any reference in this Agreement to the “Project” shall mean and include the “Property”.
- (11) “**Project Approvals**” mean, collectively, the Project’s Existing Approvals and the Subsequent Approvals.
- (12) “**Property**” shall mean that certain real property consisting of approximately 4.84 acres located within the City, as more particularly described and shown on Exhibit A to this Agreement.
- (13) “**RDCS**” means the Residential Development Control System set forth in Chapter 18.156 of the Morgan Hill Municipal Code.
- (14) “**Second Notice**” shall have that meaning set forth in Section 4.07(c) of this Agreement.

- (15) **"Subdivision Document"** means, pursuant to Government Code Section 66452.6(a) and this Agreement, any tentative map, vesting tentative map, parcel map, or final map, or any such new map or any amendment to any such map, or any resubdivision.
- (16) **"Subsequent Approvals" and "Subsequent Approval"** mean those City permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of the Project, that are sought by Developer, and that are granted by City after the City Council adopts the Ordinance, including without limitation, subdivision maps and building permits.

(b) To the extent that any defined terms contained in this Agreement are not defined above, then such terms shall have the meaning otherwise ascribed to them elsewhere in this Agreement, or if not in this Agreement, by controlling law, including the Morgan Hill Municipal Code.

1.03 Term.

(a) The term ("**Term**") of this Agreement shall commence on the Effective Date, and then shall continue (unless this Agreement is otherwise terminated or modified as provided in this Agreement) until the earliest of (1) the loss of all residential allotments for the Project pursuant to the RDCS, if applicable, (2) the issuance of a certificate of occupancy for all units in the Project or (3) ten (10) years plus one day after the Effective Date; provided however that Developer's obligations pursuant to Sections 2.03 and 2.04 shall survive the termination of this Agreement until such obligations are fully performed and completed in accordance with this Agreement.

(b) If any "**Third-Party Challenge**" (as that term is defined in Section 4.06(a) of this Agreement) is filed, then the Term of this Agreement shall be tolled for the period or periods of time from the date of the filing of such litigation until the conclusion of such litigation by dismissal or entry of a final judgment ("**Litigation Tolling**"). Notwithstanding the foregoing, regardless of the number of Third-Party Challenges that may be filed during the Term of this Agreement, the sum total of such Litigation Tolling shall not exceed five (5) years. The filing of any Third-Party Challenge shall not delay or stop the development, processing or construction of the Project, or the approval or issuance of any Project Approvals, unless enjoined or otherwise controlled by a court of competent jurisdiction. The Parties shall not stipulate to the issuance of any such order unless mutually agreed to.

ARTICLE 2

APPLICABLE LAW

2.01 Applicable Law—Generally.

(a) As used in this Agreement, "**Applicable Law**" shall mean the rules, regulations, official policies, standards, and specifications applicable to the development of the Property listed below in this Section 2.01. The order of their importance is the order in which they are listed (with highest importance listed first, second most important listed second, etc.); in the event of a conflict between them, their order shall determine which one controls (the one listed higher controlling over the one listed lower):

- (1) All the provisions, terms and conditions of this Agreement.

- (2) Existing Approvals.
- (3) The Subsequent Approvals, provided such Subsequent Approvals are:
 - (i) In compliance with all controlling California law;
 - (ii) Mutually agreed to by the Parties;
 - (iii) In compliance with this Agreement; and
 - (iv) Duly enacted by City.
- (4) The "Existing City Laws" that are not in conflict with this Agreement and the Project Approvals.
- (5) Any "New City Laws" Developer is subject to as provided in Section 2.09 of this Agreement.

(b) The Parties shall cooperatively assemble all of the necessary documents to memorialize, to the best of their abilities, the Project Approvals, Existing City Laws, and the terms and conditions contained in this Agreement to assist Developer to maintain the documents assembled and to provide a continuing reference source for the approvals granted and the ordinances, policies and regulations in effect on the Effective Date of this Agreement.

2.02 Vested Right to Applicable Law.

(a) During the Term of this Agreement, Developer shall have the vested right to develop the Project subject only to, and in accordance with, the Applicable Law, and during the Term of this Agreement, City shall have the right to regulate the development and use of the Project subject only to, and in accordance with, the Applicable Law.

(b) Nothing contained herein will give Developer a vested right to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

(c) Pursuant to this Agreement, the Applicable Law will be an expanding body of law, such as, for example, when Subsequent Approvals are granted by City, and/or when Developer becomes subject to a New City Law pursuant to this Agreement.

(d) The vested rights to develop the Project in accordance with Applicable Law and this Agreement shall be vested only to those residential units having an RDCS residential allotment. Nothing contained herein shall give Developer a vested right to develop the described Project absent valid RDCS residential allotments.

(e) Developer agrees that the terms and conditions of this Agreement and conditions of approval issued pursuant to this Agreement shall govern and dictate the vesting of the Developer's right to develop in lieu of any other instrument of vesting, including any vesting tentative map or any other agreement, instrument or document purporting to vest any right of development. Developer agrees to waive any vesting rights by operation of any otherwise applicable City, state or federal law.

2.03 Project Impacts and Costs.

(a) Agreement Subject to Project Mitigation Requirements. Notwithstanding any other express or implied term or condition of this Agreement (or the Approvals) to the contrary, throughout the Term of this Agreement, the full and complete mitigation of all environmental (including any mitigation measure adopted pursuant to CEQA), physical, fiscal and other impacts of the Project and the Property on the community and on the City of Morgan Hill and its services, facilities, operations and maintenance (collectively, "**Project Mitigation**") shall be borne by and shall be the sole and exclusive responsibility of the Developer. Such Project Mitigation may be conditions of any Applicable Law or Project Approval and may include a mix of different approaches, including without limitation, Developer construction of and/or financing of such services, facilities, operations and maintenance through the payment of impact fees or other fees, taxes, levies, assessments, or other financing mechanisms including without limitation, reimbursement agreements, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Assessment Districts, Tax-Exempt and Taxable Financing Mechanisms, Maintenance Districts, Homeowners Associations, and participation in the Statewide Communities Infrastructure Program (collectively, "**Financing Mechanisms**"). The necessary scope and extent of such Project Mitigation, and which combination of Financing Mechanisms should be employed relating to such Project Mitigation to assure success of the Project Mitigation, shall be determined by City, in its sole and exclusive discretion, pursuant to appropriate City ordinance, resolution, regulations or procedures, taking into account and guided by the pre-existing rights of others in the existing and future public services and facilities (including their operations and maintenance) that Developer may seek to use. If no Financing Mechanism is available to fund the Project Mitigation, then the Project shall not progress forward.

(b) Impact Fees. In addition to any agreed-upon Project-specific requirements as set forth in Section 2.04 and as part of the Developer's sole and exclusive obligation to cover Project Mitigation, Developer shall pay all Impact Fees and in the amounts in legal effect at the time any such Impact Fees become due and payable as provided for in the City's Municipal Code.

(c) Processing Fees. In addition to any agreed-upon Project-specific requirements as set forth in Section 2.04, the Project (including Developer as owner of same) shall be responsible for the costs to City of processing any and all Developer-requested land use approvals, including without limitation, building permits, plan checks, and environmental studies required pursuant to CEQA and other similar requests for City permits and entitlements, when such costs are incurred by City. City shall impose those funding requirements needed to ensure that the processing costs to the City are fully covered by the Developer. Further, if additional, accelerated, or more frequent inspections are requested by Developer of City than would otherwise take place in City's ordinary course of business, then City may either hire additional contract inspectors, plan checkers, engineers or planners, or City may hire a full or part time employee. If City hires additional contractors, then Developer shall reimburse City, on a monthly basis in arrears, the cost to City of hiring such additional contract inspectors, plus Developer shall pay to City an additional ten percent (10%) of such cost to City on the same payment schedule. City shall use such additional 10% to defray administrative costs. If City hires a full or part time employee, then Developer shall reimburse City, on a monthly basis, in arrears, for a pro rata share of the total cost to the City of such employee, plus ten percent (10%) for administrative costs, for the period from hire to the end of the Term of this Agreement.

2.04 RDOS and Other Specific Project-Specific Requirements.

(a) The Specific Restrictions and Requirements set forth in Exhibit C are public benefit commitments ("**Commitments**") voluntarily assumed by Developer in return for benefits derived from the City's

RDCS allotment approval program. These requirements are not Project Mitigation within the meaning of Section 2.03 of this Agreement. Developer hereby agrees that these requirements are not subject to credit, refund or reimbursement or prohibition pursuant to otherwise applicable City, state or federal law and hereby waives any such right to credit, refund, reimbursement or prohibition. These Commitments are voluntarily assumed by Developer in return for benefits derived from the RDCS. Pursuant to the RDCS, awarding of residential allotments to new development is a competitive process based on a point system. Additional points can be awarded to a development proposal that voluntarily commits towards providing a public benefit contribution in addition to those already required to mitigate its impacts. The Commitments result in additional points, thereby allowing the development proposal to secure a higher score pursuant to the RDCS, which in turn may provide a high enough score for the development proposal to secure residential allotments. The Commitments set forth in Exhibit C, derived from that RDCS process, are enforced through this Agreement.

(b) Substitution of Commitments within the same Objective may be allowed in limited circumstances, as provided in Section IV. F of the RDCS Competition Manual, with approval of the Development Services Director documented through an Administrative Amendment as provided in Section 3.05 of this Agreement. Substitution may be allowed only if the proposed changes result in the project receiving the same or higher score within each Objective, maintain or improve the quality of the project, and would result in the same or greater value to the City or its future residents. No changes which would subject the Project to further environmental review under CEQA shall be approved. In circumstances in which Substitution within the same Objective is not possible, Substitution may be allowed only by resolution of the Planning Commission.

(c) The Developer's RDCS application – RDCS2017-0015: Diana - Hanalei and approval actions (as reflected in the official records, including agendas and minutes of the City Planning Commission on March 13, 2018, March 27, 2018, and May 22, 2018) shall be incorporated into this Agreement by this reference.

2.05 Construction Codes.

With respect to the development of any or all of the Project or the Property, Developer shall be subject to the California Building Code and all those other State-adopted construction, fire and other codes applicable to improvements, structures, and development, and the applicable version or revision of said codes by local City action (collectively referred to as "**Construction Codes**") in place at that time that a plan check application for a building, grading or other permit subject to such Construction Codes is submitted to City for approval, provided that such Construction Codes have been adopted by City and are in effect on a City-wide basis.

2.06 Timing of Development.

(a) Securing Building Permits and Beginning Construction. Developer is required to obtain any approvals or permits for the development of the Project in accordance with this Agreement, the Applicable Law, and the Project Approvals. However, any Subsequent Approval initiated by Property Owner which substantially changes the permitted uses or substantially increases the height, and density or floor area allowed under the Project Approvals, shall be subject to the rules, regulations, ordinances and official policies of the City then in effect. Developer agrees to secure building permits and to begin construction of the Project in accordance with the time requirements set forth in the Construction Codes and the RDCS, if applicable. In the event Developer fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the Construction Codes, Project Approvals, and RDCS, Developer shall be in default of this Agreement, and must cure said default as provided in section 4.01 of this Agreement.

(b) Progress Reports Until Construction of Project is Complete. Developer shall make reports regarding the progress of construction in such detail and at such time as the Development Services Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of construction, off-site and landscaping contracts or documents, Developer agrees to furnish such documents to the City.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units in the Project, the City shall provide Developers with an instrument in recordable form certifying completion of the entire project.

2.07 Improvements.

In any instance where Developer is required to install improvements (including those set forth in Exhibit C), Developer shall obtain City approval of the plans and specifications and the timing and manner of the installation of improvements, and provided Developer has supplied all information required by City, City shall review and act on the application for such approval with good faith and in a reasonable manner. Where the actual cost of any improvement exceeds Developer's estimated cost or commitment, Developer shall be solely responsible for all improvement costs in excess of those approved by City unless otherwise provided for in a reimbursement agreement.

2.08 Overcapacity, Oversizing.

(a) City may require Developer to construct on-site and off-site improvements in a manner that provides for oversizing or overcapacity so that the constructed improvement will serve other development or residents or facilities and services outside of the Project ("**Oversizing**"). Such Oversizing shall be reasonable in scope. The Parties recognize that the City shall not require any Oversizing from Developer except in connection with the Project Approvals and in accordance with provisions of the Subdivision Map Act and Applicable Law.

(b) Unless no credit or reimbursement is owed to Developer pursuant to Section 2.04 of this Agreement, Developer's right to receive credits and reimbursements for Oversizing or excessive payment or performance shall be determined and processed pursuant to the City's Municipal Code and controlling practices (relative to credits and reimbursements) on the Effective Date.

2.09 New City Laws.

(a) City may apply any New City Law to the Project that is not in conflict with this Agreement and the Applicable Law it describes. City shall not apply any New City Law to the Project that is in conflict with this Agreement and the Applicable Law it describes, nor otherwise reduces the development rights or assurances provided by this Agreement. City shall not apply to the Project nor Property any no-growth or slow-growth ordinance, measure, policy, regulation or development moratorium either adopted by City or by a vote of the electorate and whether or not by urgency ordinance, interim ordinance, initiative, referendum or any other change in the laws of the City by any method or name which would alter the Applicable Law that may stop, delay, or effect the rate, timing or sequence of development.

(b) Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, a New City Law shall be deemed to be in conflict with this Agreement or the Applicable Law or to

reduce the development rights provided hereby if the application to the Project would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which affects or applies to the Project:

(1) Change any land use designation or permitted use of the Property allowed by the Applicable Law or limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the total number of residential dwelling units, square footage, floor area ratio, height of buildings, or number of proposed non-residential buildings, or other improvements;

(2) Limit or control the availability of public utilities, services, or facilities otherwise allowed by the Applicable Law;

(3) Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Project in any manner, or take any action or refrain from taking any action that results in Developer having to substantially delay construction of the Project or require the acquisition of additional permits or approvals by the City other than those required by the Applicable Law;

(4) Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations in the Existing Approvals.

(c) If City determines that it has the right pursuant to this Agreement to impose and apply a New City Law on the Property and Project, it shall send written notice to Developer of that City determination ("**Notice of New City Law**"). Upon receipt of the Notice of New City Law, if Developer believes that such New City Law is in conflict with this Agreement, Developer may send written notice to the City of the alleged conflict within thirty (30) days of receipt of City's Notice of New Law ("**Objection to New City Law**"). Developer's Objection to New City Law shall set forth the factual and legal reasons why Developer believes City cannot apply the New City Law to the Property/Project. City shall respond to Developer's Objection to New City Law ("**City Response**") within thirty (30) days of receipt of said Developer Objection to New City Law. The City Response shall set forth the factual and legal reasons why City believes it can apply the New City Law to the Project. Thereafter, the Parties shall meet and confer within thirty (30) days of the date of Developer's receipt of the City Response (the "**Meet and Confer Period**") with the objective of attempting to arrive at a mutually acceptable solution to this disagreement. Within fifteen (15) days of the conclusion of the Meet and Confer Period, City shall make its determination, and shall send written notice to Developer of that City determination. If City determines to "impose/apply" the New City Law to the Project, then Developer shall have a period of ninety (90) days from the date of receipt of such City determination within which to file legal action challenging such City action. In other words, a 90-day statute of limitations regarding Developer's right to judicial review of the New City Law shall commence upon Developer's receipt of City's determination following the conclusion of the Meet and Confer Period. If upon conclusion of judicial review of the New City Law (at the highest judicial level sought and granted), the reviewing court determines that Developer is not subject to the New City Law, such New City Law shall cease to be a part of the Applicable Law, and City shall return Developer to the position Developer was in prior to City's application of such New City Law (*e.g.*, City return fees, return dedications, etc.). The above-described procedure shall not be construed to interfere with City's right to adopt or apply the New City Law with regard to all other areas of City (excluding the Project).

(d) Developer in its sole and absolute discretion may elect to have applied to the Project a New City Law that is not otherwise a part of the Applicable Law, subject to the limitations set forth in this subdivision

(d). In the event Developer so elects to be subject to a New City Law that is not otherwise a part of the Applicable Law, Developer shall provide notice to City of that election and thereafter such New City Law shall be part of the Applicable Law. In no event shall any New City Law become part of the Applicable Law if it would relieve Developer from, or impede Developer's compliance with, Developer's obligations pursuant to this Agreement, including without limitation Developer's obligations of full "Project Mitigation" pursuant to Section 2.03 or the "RDCS and Other Project Specific Requirement" pursuant to Section 2.04. Further, for the purposes of this Agreement, the "New City Laws" Developer may elect to be subject to pursuant to this Section shall not mean nor include any or all individual development agreements with other developers (including without limitation such development agreements' term and conditions, exhibits, etc.) executed before or after the Effective Date of this Agreement.

(e) City shall not be precluded from adopting and applying New City Laws to the Project to the extent that such New City Laws are specifically required to be applied by State or Federal laws or regulations, and implemented through the Federal, State, regional and/or local level ("**Mandated New City Laws**"), including without limitation those provisions in the Development Agreement Statute, or that such New City Laws are necessitated by or arise from a declaration of City, local, state or federal declaration of a state of emergency.

(f) In the event that an administrative challenge and/or legal challenge (as appropriate) to a Mandated New City Laws preventing compliance with this Agreement is brought and is successful in having the Mandated New City Law determined to not apply to this Agreement, this Agreement shall remain unmodified and in full force and effect.

ARTICLE 3

PROCESSING

3.01 Processing.

(a) This Agreement does not provide Developer with any right to the approval of Subsequent Approvals nor to develop or construct the Project beyond that which is authorized in the Existing Approvals. This Agreement simply provides a process by which such Subsequent Approvals may be processed by Developer, and later added to this Agreement, if and only if such Subsequent Approvals are compliant with all controlling California law (including Planning and Zoning Law and CEQA), and are adopted/approved by City, which shall retain all lawful discretion in this regard. The public review process is ongoing, and following the City's adoption of this Agreement, that public review process shall continue. Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit the discretion of City or any of its officers or officials with regard to the Project Approvals that legally require the exercise of discretion by City. City's discretion as to the granting of Subsequent Approvals shall be the discretion afforded by the Applicable Law. The Parties agree that this Agreement does not modify, alter or change the City's obligations pursuant to CEQA and acknowledge that Subsequent Approvals may require additional environmental review pursuant to CEQA.

(b) Upon submission by Developer of any and all necessary and required applications for Subsequent Approvals and payment of any and all appropriate processing and other fees as provided in this Agreement, City shall use its best efforts to promptly commence and diligently complete all steps necessary to acting on the requested Subsequent Approvals, including, but not limited to, (i) the holding of any and all required

public hearings and notice for such public hearings, and (ii) the granting of the requested approval to the extent that it is consistent with Applicable Law.

3.02 Significant Actions by Third Parties Necessary to Implement the Existing Approvals.

(a) At Developer's sole discretion, Developer shall apply for such other permits, grants of authority, agreements, and other approvals from other private and/or public and quasi-public agencies, organizations, associations or other entities ("**Other Entity**") as may be necessary to the development of, or the provision of services and facilities to, the Project ("**Other Permits**").

(b) City shall cooperate with Developer in its endeavors to obtain any Other Permits and shall, from time to time, at the request of Developer, join with Developer in the execution of such permit applications and agreements as may be required to be entered into with any such other agency.

(c) In the event that any such Other Permit is not obtained from an Other Entity within the time permitted by law for such other entity to act and such circumstance materially deprives Developer of the ability to proceed with development of the Project or any portion thereof, or materially deprives City of a bargained-for public benefit of this Agreement, then, in such case, and at the election of either party, Developer and City shall meet and confer with the objective of attempting to mutually agree on solutions that may include alternatives, Subsequent Approvals, or an amendment(s) to this Agreement to allow the development of the Project to proceed with each Party substantially realizing its bargained-for benefit therefrom.

3.03 Establishment and Extension of Residential Development Control System Building Allotments.

Allotments shall be exercised pursuant to Section 18.156.160 of the Morgan Hill Municipal Code and Section IV.J of the RDCS Competition Manual. The City may approve an extension to the date by which an allotment must be exercised only as allowed by Section 18.156.170 of the City of Morgan Hill Municipal Code and Section IV.L of the RDCS Competition Manual. Extensions and allotment adjustments for ongoing projects shall be processed by Planning Commission resolution as provided in Section IV.H of the RDCS Competition Manual.

3.04 Amendments.

This Agreement may be amended from time to time by mutual consent in writing of the Parties to this Agreement in accordance with Government Code Section 65868. Any request by Developer for an amendment or modification to this Agreement or a Project Approval shall be subject to the applicable substantive and procedural provisions of the City's General Plan, zoning, subdivision, and other applicable land use ordinances and regulations (i.e., City review and approval) in effect when such an amendment or modification request is approved.

3.05 Administrative Amendment

Upon the written request of, and payment of the established fee by, Developer, Substitution of Commitments within the same criteria category may be processed administratively by the Development Services Director. Any Administrative Amendment must be made in writing approved by the Director and approved by the City Attorney, and signed by the Developer.

ARTICLE 4

DEFAULT, VALIDITY PROVISIONS, ASSIGNMENT

4.01 Defaults.

(a) Any failure by City or Developer to perform any material term or provision of this Agreement, which failure continues uncured for a period of sixty (60) days (or 150 days for a Mortgagee (as that term is defined in Section 4.10(a)) following written notice of such failure from the other Party (unless such period is extended by written mutual consent) ("**Notice of Default**"), shall constitute a default pursuant to this Agreement ("**Default**"). Any Notice of Default shall specify the nature of the alleged failure and, where appropriate, the manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 60-day period (or 150 days for a Mortgagee), then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period (or 150 days for a Mortgagee). If the alleged failure is cured, then no Default shall exist and the noticing Party shall take no further action. If the alleged failure is not cured, then a Default shall exist pursuant to this Agreement and the non-defaulting Party may exercise any of the remedies available pursuant to this Article.

(b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of written notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default. Waiver of a breach or default pursuant to this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

4.02 Actions During Cure Period.

(a) During any cure period and during any period prior to any delivery of notice of failure or default, the Party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder to the maximum extent practicable in light of the disputed matter and pending its resolution, or formal termination of the Agreement, as provided herein.

(b) City will continue to process in good faith development applications during any cure period, but need not approve any such application if it relates to an alleged default of Developer hereunder.

4.03 Resolution of Disputes.

(a) In the event either Party is in default pursuant to the terms of this Agreement, the other Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided herein; (iii) pursue judicial remedies as provided for herein; and/or (iv) terminate this Agreement.

(b) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default by another Party to this Agreement, to enforce any covenant or agreement herein, to enjoin any threatened or attempted violation hereunder, or to seek specific performance. It is expressly understood and agreed that the sole legal remedy available to Developer for a breach or violation of this Agreement by City shall be a legal action in mandamus,

specific performance, and/or other injunctive or declaratory relief to enforce the provisions of this Agreement, and that Developer shall not be entitled to bring an action for damages including, but not limited to, lost profits, consequential damages or other economic damages. For purposes of instituting a legal action pursuant to this Agreement, any City Council determination pursuant to this Agreement shall be deemed a final agency action.

(c) If any dispute arises between or among the Parties as to interpretation or application of any of the terms of this Agreement, the Parties shall attempt to resolve the dispute in accordance with this Agreement prior to third party mediation, arbitration, or formal court action. As to any such dispute, the Parties shall first meet and confer in good faith to resolve the matter between themselves. Each Party shall make all reasonable efforts to provide to the other Party or Parties all information relevant to the dispute, to the end that all Parties will have appropriate and adequate information to resolve the dispute. Should the Parties not resolve the dispute informally, the Parties agree to meet and confer in an effort to agree on utilizing Judicial Arbitration Mediation Services ("JAMS") for Alternative Dispute Resolution ("ADR"). However, no party shall be required to use JAMS or ADR.

4.04 Periodic Review.

(a) The City shall review this Agreement at least once annually to assure compliance with the RDCS, at which time the Developer is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such annual review, the City finds and determines, on the basis of substantial evidence, that Developer has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded pursuant to the RDCS, in addition to all other legally available remedies.

4.05 Force Majeure Delay, Extension of Times of Performance.

(a) Performance by any Party hereunder shall be excused, waived or deemed not to be in default where delays or defaults are due to acts beyond a Party's control such as war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, unexpected acts of governmental entities other than City, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by the Developer, City, or any other person or entity) (each a "Force Majeure Event").

(b) Any Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, any Party may take action as permitted in this Agreement.

4.06 Third Party Legal Actions.

(a) In the event of any administrative, legal or equitable action or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, any Project Approvals, or the sufficiency of any environmental review pursuant to CEQA ("**Third-Party Challenge**"), the Parties shall cooperate with each other in good faith in the defense of any such challenge.

(b) City shall have the option to defend such Third-Party Challenge or to tender the complete defense of such Third-Party Challenge to the Developer ("**Tender**"). If City chooses to defend the Third-Party Challenge or Developer refuses City's Tender, City shall control all aspects of the defense and Developer shall pay City's attorneys' fees and costs (including related court costs).

(c) If Developer accepts City's Tender, Developer shall control all aspects of the defense and shall pay its own attorneys' fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third-Party Challenge. If City wishes to assist Developer when Developer has accepted the Tender, Developer shall accept that assistance and City shall pay City's own attorneys' fees and costs (including related court costs) ("**City Costs**"), and Developer shall pay its own attorneys' fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge (such third party fees and costs shall not include City Costs).

(d) If any part of this Agreement or any Project Approval is held by a court of competent jurisdiction to be invalid, the City shall: (1) use its best efforts to sustain and/or re-enact that part of this Agreement and/or Project Approval; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement, and then adopting or re-enacting such part of this Agreement and/or Project Approval as necessary or desirable to permit execution of this Agreement and/or Project Approval.

4.07 Estoppel Certificate.

(a) Any Party may, at any time, and from time to time, deliver written notice to any other Party, and/or to the Developer's lender, requesting such Party to certify in writing that, to the knowledge of the certifying Party:

(1) This Agreement has not been amended or modified either orally or in writing or if so amended, identifying the amendments.

(2) The Agreement is in effect and the requesting Party is not known to be in default of the performance of its obligations pursuant to this Agreement, or if in default, to describe therein the nature and amount of any such defaults.

(b) This written certification shall be known as an "**Estoppel Certificate**." A Party receiving a request hereunder shall execute and return such Estoppel Certificate within ten (10) days following the receipt of the request, unless the Party, in order to determine the appropriateness of the Estoppel Certificate, promptly commences and proceeds to conclude an Annual Review. The Parties acknowledge that an Estoppel Certificate may be relied upon by Assignees and other persons having an interest in the Project, including holders of mortgages and deeds of trust. The City Manager shall be authorized to execute an Estoppel Certificate for City.

(c) If a Party fails to deliver an Estoppel Certificate within the ten (10) day period, as provided for in Section 4.07(b) above, the Party requesting the Estoppel Certificate may deliver a second notice (the "**Second Notice**") to the other Party stating that the failure to deliver the Estoppel Certificate within ten (10) working days following the receipt of the Second Notice shall constitute conclusive evidence that this Agreement is without modification and there are no unexcused defaults in the performance of the requesting Party. Failure to deliver the requested Estoppel Certificate within the ten (10) working day period shall then constitute conclusive evidence that this Agreement is in full force and effect without modification and there are no unexcused defaults in the performance of the requesting Party.

4.08 Assignment/Covenants Run with the Land.

(a) Right to Assign. Developer shall have the right to sell, assign, or transfer this Agreement with all its rights, title and interests therein to any person, firm or corporation acquiring an interest in the Project or Property (or portion thereof associated with the Project) at any time during the term of this Agreement ("**Assignee**"). Developer shall provide City with written notice of any assignment or transfer of all or a portion of the Property no later than thirty (30) days prior to such action, which notice shall include specific portions of the Project or Property to be assigned and the proposed form of assignment. Any proposed assignment shall be subject to the express written consent of City, which consent shall not be unreasonably withheld, delayed or conditioned. City's approval of a proposed assignment or transfer shall be based upon the proposed assignee's reputation, experience, financial resources and access to credit and capability to successfully carry out the development of the Property to completion. The written assignment, assumption or release of rights or obligations with respect to a portion of the Project or of the Property shall specify the portion of the Project or Property and the rights assigned and obligations assumed, and shall be approved by the City Attorney. The express written assumption by an Assignee of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred shall relieve Developer of such obligations so assumed. Any such assumption of Developer's obligations pursuant to this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form as may be approved by the City Attorney.

(b) Release Upon Assignment. Upon assignment, in whole or in part, and the express written assumption by the Assignee of such assignment, of Developer's rights and interests pursuant to this Agreement, Developer shall be released from its obligations with respect to the Property/Project (or any portion thereof), and any lot, parcel, or portion thereof so assigned to the extent arising subsequent to the effective date of such assignment. A default by any Assignee shall only affect that portion of the Property/Project owned by such Assignee and shall not cancel or diminish in any way Developer's rights or obligations hereunder with respect to the assigned portion of the Property/Project not owned by such Assignee. The Assignee shall be responsible for the reporting and annual review requirements relating to the portion of the Property/Project owned by such Assignee, and any amendment to this Agreement between City and Assignee shall only affect the portion of the Property/Project owned by such Assignee.

(c) Covenants Run with the Land. This Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants and obligations shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Project and/or Property, any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable during the Term as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including, but not limited to Civil Code Section 1468.

This Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee, or any other successor of Developer acquiring a completed residential unit comprising all or part of the Project (“**Consumer**”) unless such Consumer is specifically bound by a provision of this Agreement or by a separate instrument or Agreement.

4.09 Encumbrances on the Property.

The parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner, at Developer's sole and absolute discretion, from encumbering the Property, or any portion thereof or any improvements thereon with any Mortgage securing financing with respect to the construction, development, use or operation of the Project. Mortgagee may require certain modifications to this Agreement, and City shall negotiate in good faith any such request for modification or subordination.

4.10 Obligations and Rights of Mortgage Lenders.

(a) The holder of any mortgage, deed of trust or other security arrangement with respect to the Property, or any portion thereof (“**Mortgagee**”), shall not be obligated pursuant to this Agreement to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all of the terms and conditions of this Agreement that pertain to the Property or such portion thereof in which it holds an interest.

(b) Each Mortgagee shall be entitled to receive written notice from City of results of the annual review to be done pursuant to Section 4.04 and any default by Developer pursuant to this Agreement, provided such Mortgagee has informed City of its address for notices. Each Mortgagee shall have a further right, but not an obligation, to cure such default in accordance with the default and default cure provisions in Sections 4.01, 4.02, and 4.03 of this Agreement. In the event Developer (or any permitted Assignee) becomes subject to an order for relief pursuant to any chapter of Title 11 of the United States Code (the “**Bankruptcy Code**”), the cure periods provided for a Mortgagee in Section 4.01(a) of this Agreement shall be tolled for so long as the automatic stay of Section 362 of the Bankruptcy Code remains in effect as to Developer (or any permitted Assignee); provided, however, if City obtains relief from the automatic stay pursuant to Bankruptcy Code Section 362 to declare any default by or exercise any remedies against Developer (or any permitted Assignee), the tolling of any Mortgagee's cure period shall automatically terminate on the earlier of: (i) the date that is sixty days after entry of the order granting City relief from the automatic stay, or (ii) the date of the entry of an order granting Mortgagee relief from the automatic stay. Each Mortgagee shall be entitled to receive written notice from City of the filing of any motion by City in which City seeks relief from the automatic stay of Section 362 of the Bankruptcy Code to declare any default by or exercise any remedies against Developer (or any permitted Assignee).

(c) Any Mortgagee who comes into possession of the Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Property, or such portion thereof, that have accrued prior to the time such holder comes into possession. In addition, any Mortgagee who comes into possession of the Property or any portion thereof, pursuant to a foreclosure of mortgage or deed of trust, or deed in lieu of such foreclosure, shall, subject to Section 4.10(a) above, be a permitted Assignee and, as such, shall succeed to all the rights, benefits and obligations of Developer pursuant to this Agreement.

(d) Nothing in this Agreement shall be deemed to be construed to permit or authorize any such holder to devote the Property, or any portion thereof, to any uses, or to construct any improvements thereof, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

4.11 Termination.

This Agreement shall terminate upon the expiration of the Term, as set forth in Section 1.03(a), or at such other time as this Agreement is terminated in accordance with the terms hereof, whichever occurs first. Upon termination of this Agreement, the City shall record a notice of such termination, in a form satisfactory to the City Attorney that the Agreement has been terminated.

ARTICLE 5

GENERAL PROVISIONS

5.01 Miscellaneous.

(a) Preamble, Recitals, Exhibits. References herein to "this Agreement" shall include the Preamble, Recitals and all of the exhibits of this Agreement.

(b) Requirements of Development Agreement Statute. The permitted uses of the Property; density and/or intensity of use of the Property; the maximum height and size of proposed buildings and other structures; provisions for reservation or dedication of land for public purposes; location of public improvements; and other terms and conditions applicable to the Project shall be those set forth in the Applicable Law.

(c) Governing Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California and legal actions commenced pursuant to or pursuant to this Agreement shall be brought in Santa Clara Superior Court. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(d) Project as a Private Undertaking. No partnership, joint venture, or other association of any kind between Developer, on the one hand, and City on the other hand, is formed by this Agreement. The development of the Property is a separately undertaken private development. The only relationship between City and Developer is that of a governmental entity regulating the development of private Property and the owners of such private Property.

(e) Indemnification. Developer shall hold City, its elective and appointive boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's contractors, subcontractors', agents' or employees' operations on the Project, whether such operations be by Developer or by any Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors. Developer shall indemnify and defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and Developer shall pay all reasonable attorney's fees and costs that the

City may incur. City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless requirement of Developer because of the acceptance of improvements by City, or the deposit of security with City by Developer. The aforesaid hold-harmless requirement of Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this subsection, regardless of whether or not City has prepared, supplied or approved of, plans and/or specifications for the subdivision. Notwithstanding anything herein to the contrary, Developer's indemnification of City shall not apply to the extent that such action, proceedings, demands, claims, damages, injuries or liability is based upon the active negligence of the City.

(f) Insurance. Developer shall, during the life of this Agreement take out and maintain insurance coverage with an insurance carrier authorized to transact business in the State of California as will protect the Developer or any Contractor or any Subcontractor or anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable, from claims for damages because of bodily injury, sickness, disease, or death of their employees or any person other than their employees, or for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom. The minimum limits of liability for such insurance coverage which shall include comprehensive general and automobile liability, including contractual liability assumed pursuant to this Agreement, shall be as follows:

Limit of Liability for Injury or Accidental Death:

Per Occurrence \$1,000,000

Limit of Liability for Property Damage:

Aggregate Liability for Loss \$1,000,000

Such liability insurance policies shall name the City as an additional insured, by separate endorsement, and shall agree to defend and indemnify the City against loss arising from operations performed pursuant to this agreement and before permitting any Contractor or Subcontractors to perform work pursuant to this agreement, the Developer shall require Contractor or Subcontractors to furnish satisfactory proof that insurance has been taken out and is maintained similar to that provided by the Developer as it may be applied to the Contractor's or Subcontractor's work.

(g) Interpretation/Construction. This Agreement has been reviewed and revised by legal counsel for both Developer and City, and any rule or presumption that ambiguities shall be construed against the drafting Party shall not apply to the interpretation or enforcement of this Agreement. The standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of City. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

(h) Notices.

(1) All notices, demands, or other communications that this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed, via first class mail, to the respective Party at the below listed address. Notice shall be deemed effective and received five days after the date of mailing or upon personal delivery.

If to City: City Clerk
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7259
Fax: (408) 779-3117

With a Copy To: City Attorney
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7271
Fax: (408) 779-1592

If to Developer: Scott Murray or Orville Power
Montecito Estates MH, LLC
5927 Balfour Court
Carlsbad, CA 92008
Tel: (408) 406-6000

With a Copy To: Vince McCarrie
D.R. Horton
6683 Owens Drive
Pleasanton, CA 94588
Tel: (925) 225-7490

(2) Any Party may change the address stated herein by giving notice in writing to the other Parties, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to the Developer as required by this Agreement shall also be given to any lender which requests that such notice be provided. Any lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.

(i) Recordation. The Clerk of the City shall record, within ten (10) days after the Effective Date, a copy of this Agreement in the Official Records of the Recorder's Office of Santa Clara County. Developer shall be responsible for all recordation fees, if any.

(j) Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect.

(k) Jurisdiction. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed pursuant to the laws of the State of California.

(l) Entire Agreement. This Agreement, including these pages and all the exhibits (set forth below) inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.

(m) Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Developer and City. This Agreement may be executed in multiple originals, each of which is deemed to be an original.

(n) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

(o) Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Legal Description of Lot on Which Project is to be Located.

Exhibit B Description of Project.

Exhibit C RDCS Specific Restrictions and Requirements.

Signatures of all parties are on the following page.

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IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the date first hereinabove written.

CITY OF MORGAN HILL:

DEVELOPER:

Montecito Estates MH, LLC

Christina J. Turner
City Manager

Orville Power, Manager

Date: _____

Date: _____

*Corporate entities must provide a
second signature:*

Attest:

s/ _____

s/ _____

Name/Title [print]

Deputy City Clerk

Date: _____

Approved as to Form:

Adopted by Ordinance No. _____

s/ _____

by action of City Council on _____

Donald A. Larkin
City Attorney

Date: _____

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,
MUST BE ACKNOWLEDGED BY A NOTARY)**

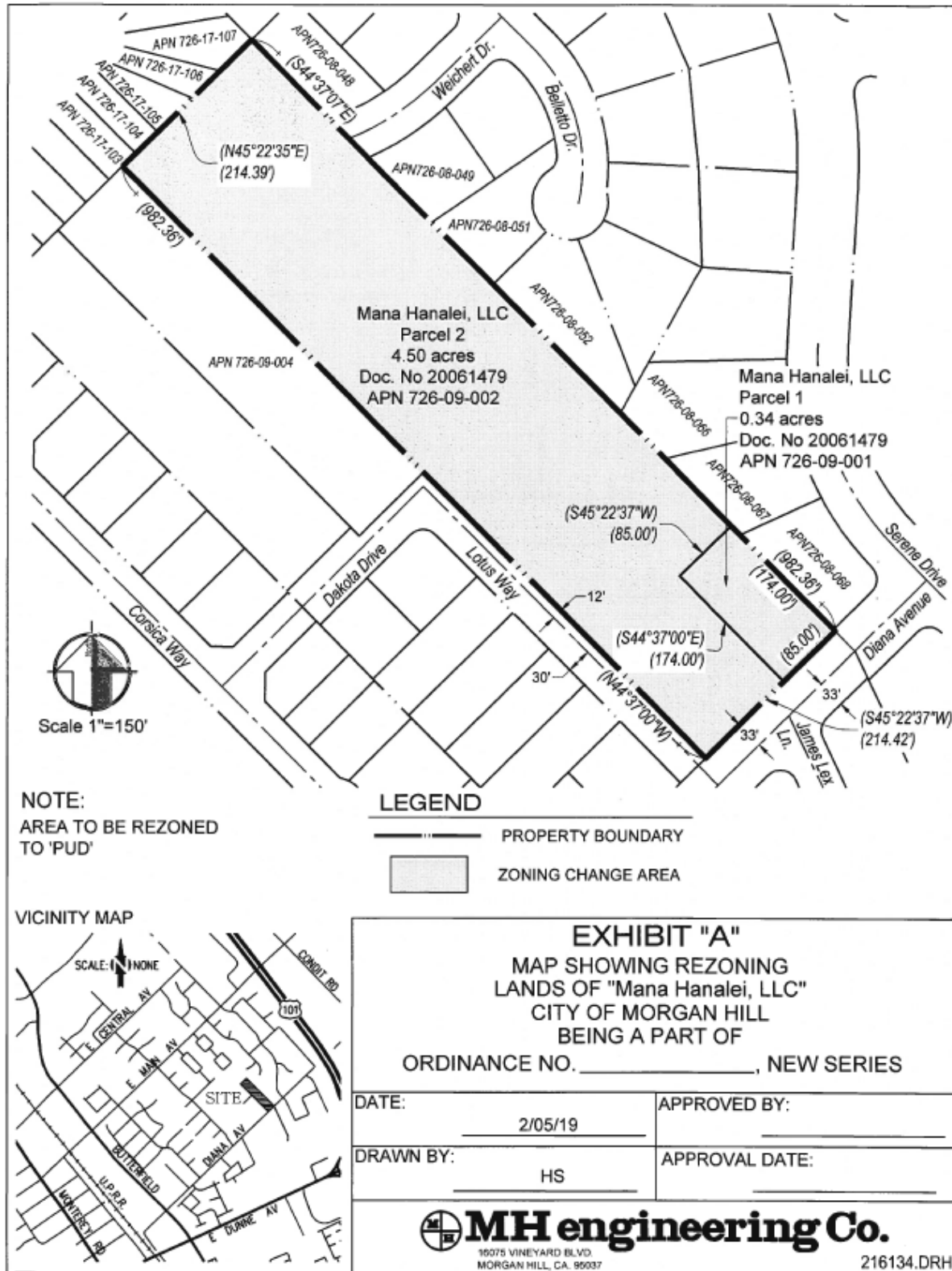
Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY ON WHICH
PROJECT IS BE LOCATED

All that certain real property situated in the County of Santa Clara, State of California and being a portion of LOT 50, as shown upon "Morgan Hill Ranch Map No. 1 ", filed in Book 'G' of Maps, Pages 2 & 3, on June 1, 1892 at the Office of the Recorder of Santa Clara County, being more particularly described in the Individual Quit Claim Deed, Doc. No. 20061479, recorded on December 08, 2008 at the official records of said County and being more particularly described as follows:

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

All of PARCEL ONE and PARCEL TWO as described in Exhibit 'A' of said deed.



Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

EXHIBIT B**DESCRIPTION OF PROJECT**

RDCS APPLICATION NO. RDCS2017-0015: DIANA-HANALEI FOR A RESIDENTIAL DEVELOPMENT PROJECT THAT SUBDIVIDES THE PROJECT SITE INTO 24 RESIDENTIAL LOTS AND INCLUDES DEVELOPMENT OF 24 NEW SINGLE-FAMILY RESIDENCES, PUBLIC ACCESS ROADS, AND A PRIVATE PARK.

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

EXHIBIT C

SPECIFIC RESTRICTIONS AND REQUIREMENTS

(INCLUDING RDCS REQUIREMENTS)

The following chart describes the applicable reference in the Morgan Hill Municipal Code to the requirement, a description of the commitments specific to the Project, the requirement timing of the implementation and the total estimated costs of improvement or applicable fee commitment. These commitments are IN ADDITION to any mitigation requirements pursuant to CEQA, impact fees, in-lieu fees or other requirements pursuant to federal or state laws, or the Morgan Hill Municipal Code (See Section 2.03 of the Agreement)

*Contribution estimates may require augmentation for the completion of improvements. Impact fees are subject to the provisions of Section 2.03 (b) of this Agreement.

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
1.	Schools			
4.	Student Transportation Improvements	Applicant shall contribute \$5000 per unit to contribute to the City's Safe Access to Schools Fund to be used to construct physical improvements to enhance safe student access to MHUSD Schools.	Prior to the issuance of building permit	\$5,000 per unit
3.	Affordable Housing			
2.	Voluntary Contribution to Housing Fund	Project commits to contributing to the City's Affordable Housing Fund at a rate of 110 percent of baseline contribution. Total Livable Area: 62,100 square feet Per square foot fee: \$ 12.92 Baseline fee: \$ 802,332.00 (total)	Inclusionary Housing Agreement required 60 days following Development Agreement approval	\$882,565.20 voluntary contribution based on estimated in-lieu fee for project. Fee to

EXHIBIT C

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Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
		10 percent additional fee: \$ 80,233.20 110 percent Fee: \$882,565.20 Baseline fee per unit: \$38,372.40 In-lieu of voluntarily contributing the 110 percent to the Housing Fund, the applicant shall build two Below Market Rate (BMR) units with each having a BMR Value of \$436,050. The applicant shall contribute the balance of the voluntary fund commitment in the amount of \$10,454.20 (454.53 per unit) for a total Affordable Housing Commitment of 110 percent.		be partially off-set by the development of two on-site Below Market Rate units with a value of \$872,100.00.
3.	Development of Affordable Units	To satisfy the City's Inclusionary Housing requirement specified in Chapter 14.04 (Inclusionary Housing) of the City's Municipal Code, the applicant shall incorporate Below Market Rate (BMR) units within the project for a mixed income community with two units within the project designated as deed restricted for sale affordable units. The designated affordability limits shall be 80 percent AMI for one unit and 90-120 percent AMI for one unit.	Inclusionary Housing Agreement required 60 days following Development Agreement approval	N/A
4.	Housing Diversity			

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
2.	Diversity of Housing Types	The project shall provide at least 10% of the 3 different housing types (duet, SFD single story, and SFD multi story). 6 units will be duets, 12 units will be SFD single story, and 6 units will be SFD multi story.	Prior to Design Review Permit approval	N/A
3.	Variation in Housing Size	The projects variation between largest and smallest units is at least 35% (each floor plan varies by 200 square feet) The project consists of 4 housing sizes.	Prior to Design Review Permit approval	N/A
6.	Single-Story Homes	The project shall build at least 50% (12 units) single story units.	Prior to Design Review Permit approval	N/A
5.	Parks and Open Space			
1.	Park Fund Contribution	In addition to standard park impact fees, project shall pay \$2,000 per unit.	Prior to building permit issuance	\$2,000 per unit
2.	Excess Park Land	Project shall provide a minimum of 10% more dedicated open space that the minimum level mandated by the Municipal Code.	Prior to Design Review Permit approval	N/A
5.	Agricultural Preservation or Open Space Fund Contribution	In addition to standard fees, project shall contribute to single unit rate per unit to the agricultural preservation and open space fund. This fee adjusts annually.	Prior to building permit issuance	Fee to be determined at time of payment
6.	On-Site Recreational Amenities	Project shall provide: a horseshoe pit, a passive recreation area and/or garden, and a tot lot with a minimum of three age appropriate activities.	Prior to Design Review Permit approval	N/A

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
7.	Amenities for Age Group	Project shall provide a tot lot (children) and BBQ area (adults).	Prior to Design Review Permit approval	N/A
10.	Open Space Design	The size of the park shall be 10% larger than the size required by the Municipal Code; fences shall surround the open space for edges; landscaping shall be enhanced and a total of 5 different amenities shall be offered within the park well beyond the minimum.	Prior to Design Review Permit approval	N/A
6.	Environmental Protection			
1.	Energy Efficiency	The project shall exceed the minimum building energy efficiency requirement by the California Energy Code by 15 percent.	Prior to issuance of building permit	N/A
4.a	Natural Turf	Less than 50 percent of the landscaped area shall contain natural turf.	Prior to issuance of building permit	N/A
4.d	Exceeds Outdoor Water Efficiency 20%	Project shall exceed outdoor water efficiency standards by 20%.	Prior to issuance of building permit	N/A
4.e	Exceeds Outdoor Water Efficiency 30%	Project shall exceed outdoor water efficiency standards by 30%.	Prior to issuance of building permit	N/A
5.	Sustainable Site and Building Design	The project commits to score 108 points or 19 points over the minimum 89 points required by the City of Morgan Hill Municipal Code.	Prior to the issuance of building permit	N/A
7.	Transportation			
3.	Off-Site Street and Parking Improvements or Fund Contribution	The project shall fund off-site street roadway and/or parking improvements that are outside of the project boundaries in the amount of	Prior to issuance of building permit	\$3,000 per unit

EXHIBIT C

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Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
		\$3,000 per unit. Improvements to be determined by City Engineer.		
4.a	Transportation Demand Management fund	The project shall contribute \$2,000 per unit to the City's transportation fund to be used to provide city-wide TDM programs	Prior to issuance of building permit	\$2,000 per unit
5.a	Aligns and connects streets	The project shall align and connect streets intersecting the project boundary with all adjoining streets.	Prior to Design Review Permit approval	N/A
5.b	Extends Streets	The project shall extend streets to adjoining undeveloped land to provide access to undeveloped land in the event of its future development.	Prior to Design Review Permit approval	N/A
5.c	Off-street bicycle and pedestrian connections	The project shall provide detached sidewalks offering a shorter connection from surrounding neighborhoods to adjacent destinations including parks, open space, transit facilities and commercial areas.	Prior to Design Review Permit approval	N/A
6.a	Complete Streets	The project shall incorporate "complete streets" that will meet the needs of multiple users, including motorists, bicyclists, pedestrians, transit users, and persons of different physical capabilities as required by the City Engineer.	Prior to Design Review Permit approval	N/a
6.c	Direct pedestrian connections	The project shall provide direct pedestrian connections from all units to common open space, recreational facilities, and other project amenities.	Prior to Design Review Permit approval	N/A

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
6.d	Neighborhood traffic management techniques	The project shall incorporate a variety of neighborhood traffic management techniques, such as a knuckle and bulbout designed to City standards, to control vehicle speeds and increase the safety of bicycle and pedestrian travel.	Prior to Design Review Permit approval	N/A
8.	Municipal Infrastructure			
3.a	Reduces off-site storm water flows	The project shall reduce the volume of off-site storm water flows beyond minimum requirements using low impact development (LID) techniques.	Prior to issuance of building permit	N/A
4.	Infrastructure and Services Fund Contribution	The project shall contribute \$3,000 per unit to the City's infrastructure and Services Fund.	Prior to issuance of building permit	\$3,000 per unit
5.a	Installs broadband conduit in public right-of-way	The project shall install broadband conduit in the public right-of way along the project frontages.	Prior to issuance of building permit	N/A
5.b	Installs broadband conduit to home/buildings	The project shall install broadband conduit from the public right-of-way to each home within the project.	Prior to issuance of building permit	N/A
5.c	Pre-installs indoor conduit	The project shall pre-install indoor conduit, wiring and other necessary infrastructure so that broadband service may be provided to each unit.	Prior to issuance of building permit	N/A
9.	Project Quality			

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
1.a	Front Porches	The criteria requires that a minimum of 50 percent of homes facing a street or common interior courtyard include a front porch that is part of the home's primary entrance. The porch is required to be a minimum of 6 feet by 5 feet, and in full view of the street or common interior courtyard. Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
1.d	Façade Articulation and Finishes	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
1.e	360-degree Architecture	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
1.f	Corner Treatments	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
1.g	Colors and Materials	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
2.a	Entrance Orientation-Collector and Residential Streets	The majority of the project is creating streets (not facing existing streets or collectors); however, 3 homes are facing along Diana Avenue, the existing collector. Due to the narrowness of the lot, the project has maximized the number of lots that can face Diana Avenue. The project shall comply with the stated criteria.	Prior to Design Review Permit approval	N/A
2.c	Variation in Building Height	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
2.d	Variation in Building Placement	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
2.e	Roof Line Variation	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
2.f	Upper Floor Setback-Detached Homes	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
3.b	Landscaping-Visual Relief	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
3.c	Exterior Lighting	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
3.d	Entrance Pathways	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
3.e	Public/Private Transitions	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
3.f	Mechanical Equipment	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
4.b	Garage Door Design-Minimizing Visual Dominance	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
4.c	Garage Door Design-Detailing	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
4.h	Setback Areas	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A
4.i	Pavement Design	Project shall demonstrate compliance with the stated criteria.	Prior to Design Review Permit approval	N/A

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

EXHIBIT C

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Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
5.	Public Art	The applicant shall provide \$3,000 per unit for public art.	Prior to issuance of building permit	\$3,000 per unit

Attachment: Development Agreement [Revision 3] (2484 : Subdivision: Diana-Mana)

**Montecito Estates Master Plan
Requested Deviations List**

File Number: ZA#2019-0006: Diana-Mana Hanalei

Related File Number(s): SD#2018-0006; DA#2018-0003; EA#2018-0023

Requested Master Plan Deviations		
Lot#	Deviation	Zoning Code Notes (RDM-7,000)
6	Reduced rear setback at 16.89'	Less than standard 20' First Story
7	Reduced rear setback at 17.01' Reduced rear setback at 22.14'	Less than standard 20' First Story; Less than standard 25' Upper Stories
8	Reduced rear setback at 17.0' Reduced front setback at 21.11'	Less than standard 20' First Story; Less than standard 25' First Story
9	Reduced rear setback at 17.59' Reduced front setback at 22.96'	Less than standard 20' First Story Less than standard 25' First Story
12	Reduced rear setback at 17.01'	Less than standard 20' First Story
13	Reduced rear setback at 17.01'	Less than standard 20' First Story
16	Reduced interior side yard setback at 6.38'	Less than standard 12.5' Upper Stories
17	Reduced interior side yard setback at 9.5'	Less than standard 12.5' Upper Stories
18	Reduced interior side yard setback at 9.53'	Less than standard 12.5' Upper Stories
20	Reduced interior side yard setback at 8.25'	Less than standard 12.5' Upper Stories
21	Reduced street side setback at 13.66'	Less than standard 15' street side
22	Reduced rear setback at 19.02'	Less than standard 20' First Story
24	Reduced rear setback at 19.0'	Less than standard 20' First Story

Attachment: Diana-Mana Deviations [Revision 1] (2484 : Subdivision: Diana-Mana)

FILING REQUIREMENTS FOR PLANNED DEVELOPMENT
Supplemental Written Materials
MONTECITO ESTATES

1. A Statement of planning objectives to be achieved, and a description of the character of the proposed PD development district.

Montecito Estates is a high-quality residential infill development with an approved 24-unit Residential Development Control System (RDCS) building allotment. The neighborhood is located within a half mile walking distance to the core of Morgan Hill, which makes it well-connected to City services. The General Plan land use is Residential Detached Medium, allowing densities up to 7 dwelling units per acre. The gross project area is approximately 4.8 acres with a dedication of 0.8 acres to the public right-of-way, yielding 5 gross or 6 net dwelling units to the acre.

The park and open space planned for the community is designed to appeal to all age groups with a mixture of amenities anticipated to accommodate children through seniors including a tot lot, horseshoe pits, pedestal BBQ and picnic table, garden space with raised planting beds, and other inviting passive recreation areas that offer residents a place to enjoy the outdoors.

Montecito Estates is a charming community designed with predominantly single-family detached homes and a limited number of duplexes, where half of the homes are designed as single-story and the other half as two-story to allow for a variety of buyer profiles and multi-generational residents, including ageing-in place living. Each residence is equipped with a two-car garage and on-street parking will be permitting on the public streets.

The development utilizes four plan types and three elevational vernaculars that produce a unique character combination of plan and elevations, creating a diversity of styles. Each of the following styles are devoted to informing timeless, transitional elevations that enrich the existing neighborhood fabric:

- *The Modern Farmhouse uses a combination of board and batten and horizontal lap siding combined with accents of stone and exposed beam ends to create a familiar inviting home.*
- *The Modern Craftsman uses shingle siding combined with horizontal siding, stone accents and exposed beams to create a well-crafted street presence.*
- *The Modern Ranch uses horizontal siding, hipped roof forms and metal roofing accents, to create a sleek, predominantly horizontal form.*

Each aesthetically pleasing style has individual detailing to allow for a more custom home feel, including unique window and door styles, which is utilized on all four sides of the home to create 360-degree architecture. The use of plaster (i.e., stucco) as a wall finish material has been minimized on these homes to further create a feeling of authenticity. Each individual plan has a front porch and varied roof pitch given the architectural theme and the roof lines have breaks and setbacks on the two-story homes. The neighborhood is designed with attached and detached sidewalks, where appropriate, and enhanced colored concrete on each private drive and scored front walkways that complement the architectural styles.

Montecito Estates' RDCS project objectives exceed the City's minimum development standards and provide substantial public benefits in the following ways:

- *Open Space and other public gathering places that provide opportunities for people to informally meet and gather:*
 - *project park is approximately a quarter-acre and is located centrally to provide good access for all residents*
 - *project will provide approximately 15% more dedicated open space than the minimum level required by the Morgan Hill Municipal Code*
 - *project will use visually interesting landscaping design by implementing a drought tolerant landscape plan and landscape focal points using trees and natural grass to enhance the community*

- *New pedestrian and bicycle pathways that enhance circulation and connectivity to the surrounding neighborhood:*
 - *project provides detached sidewalks offering a shorter connection from surrounding neighborhoods to adjacent destinations*
 - *project provides attached sidewalks offering alignment and connection to streets intersecting the project boundary*
 - *project will extend streets to adjoining undeveloped land to provide access in the event of its future development*
 - *project provides traffic calming measures such as a knuckle and bulb-out and narrowed streets from 40 feet to 36 feet*
- *Green building and sustainable development features that substantially exceed the City's minimum requirements:*
 - *project is designed at 108 Build it Green points, which is 19 points over the minimum requirement of 89 points*
 - *project plans to exceed the required 2016 California Energy Code Title 24 minimum standard design building energy efficiency by 15%*
 - *project exceeds outdoor water efficiency standards by more than 30% with anticipated use at 48% less than what would otherwise be allowed per code*
 - *project will reduce the volume of off-site storm water flows beyond minimum requirements using low impact development (LID) techniques*
- *Increased transportation options for residents and visitors to walk, bike, and take public transit:*
 - *project is 0.75 miles to the Morgan Hill VTA Transit Center*
 - *project contributes to the City of Morgan Hill transportation fund to be used to provide city-wide TDM programs*
 - *project will contribute to the City's fund for off-site street roadway and/or parking improvements that are outside of the project boundaries*
 - *project will contribute to the City's infrastructure and Services fund*
- *Housing that is affordable to lower-income households:*
 - *project will monetarily contribute 110% of the baseline in-lieu fee toward the development of affordable housing*

Montecito Estates complies with the following General Plan goals and policies for Residential Detached Medium land use and Housing, including but not limited to:

- *GENERAL PLAN GOAL CNF-11 – High quality, aesthetically pleasing, livable, sustainable, well-planned residential neighborhoods, well-connected to neighborhood services.*

NEW SUBDIVISIONS

- *Policy CNF-11.2 – Well-Designed Residential Neighborhoods*
- *Policy CNF-11.3 – Appropriate Residential Transitions*
- *Policy CNF-11.4 – Internal Connectivity*
- *Policy CNF-11.5 – Outside Connections*
- *Policy CNF-11.8 – Multi-Modal Transportation Systems*
- *Policy CNF-11.9 – Continuous Sidewalks*
- *Policy CNF-11.10 – Open Space*
- *Policy CNF-11.11 – Mix of Housing Types*
- *Policy CNF-11.12 – Design Variation*
- *Policy CNF-11.13 – Active Public Realm*

GENERAL RESIDENTIAL DESIGN

- Policy CNF-11.14 – Residential Development
- Policy CNF-11.15 – Architectural Style
- Policy CNF-11.16 – 360-Degree Design
- Policy CNF-11.17 – Architectural Details
- Policy CNF-11.18 – Orientation to the Street
- Policy CNF-11.19 – Parking and Driveways
- Policy CNF-11.20 – Infill Compatibility
- Policy CNF-11.21 – Neighbor Privacy

ATTACHED SINGLE-FAMILY and MULTI-FAMILY DESIGN

- Policy CNF-11.22 – Minimized Mass and Scale
- Policy CNF-11.25 – Prominent Entries
- Policy CNF-11.28 – Bicycles and Pedestrians
- HOUSING ELEMENT GOAL HE-1 – Adequate new housing to meet the full range of future community housing needs, including affordability and accessibility.
 - Policy HE-1d – Variety of Housing
 - Policy HE-1j – New Market Rate Developments
 - Policy HE-1aa – Environmental Sustainability
- HOUSING ELEMENT GOAL HE-4 – A range of housing types for all age groups, served by transit, recreational amenities, shopping, and health and personal services, that allow residents to age in place.
 - Policy HE-4m – New Residential Development Locations
 - Policy HE-4t – Complete Intergenerational Neighborhoods

2. A detailed list or table showing all development standard deviations being requested.

See Table 1 summary below and Sheet 1 of the Tentative Map, legend symbol **(A)** for lots with development standard setback deviations from the base Zoning District RDM 7,000 (Residential Detached Medium Density). Sheet 1 measures setbacks from face-of-curb.

TABLE 1		
Lot #	Deviation	Zoning Code Notes
6	Reduced rear setback at 16.89'	less than standard 20' First Story
7	Reduced rear setback at 17.01' Reduced rear setback at 22.14'	less than standard 20' First Story less than standard 25' Upper Stories
8	Reduced rear setback at 17.0' Reduced front setback at 21.11'	less than standard 20' First Story less than standard 25' First Story
9	Reduced rear setback at 17.59' Reduced front setback at 22.96'	less than standard 20' First Story less than standard 25' First Story
12	Reduced rear setback at 17.01'	less than standard 20' First Story

TABLE 1

Lot #	Deviation	Zoning Code Notes
13	Reduced rear setback at 17.01'	less than standard 20' First Story
16	Reduced interior side yard setback at 6.38'	less than standard 12.5' Upper Stories
17	Reduced interior side yard setback at 9.5'	less than standard 12.5' Upper Stories
18	Reduced interior side yard setback at 9.53'	less than standard 12.5' Upper Stories
20	Reduced interior side yard setback at 8.25'	less than standard 12.5' Upper Stories
21	Reduced street side setback at 13.66'	less than standard 15' street side
22	Reduced rear setback at 19.02'	less than standard 20' First Story
24	Reduced rear setback at 19.0'	less than standard 20' First Story

3. A development scheme, indicating all phasing of construction.

See Attachment A for an illustration of the proposed development scheme. Demolition of the existing onsite structures would occur first, followed by grading activities. Backbone infrastructure is anticipated to be installed consistent with the phasing shown on Attachment A. The model complex is proposed along Diana Avenue (Lots 22-24). Construction of production lots is anticipated to occur in two phases. Phase 1 would include Lots 1-8 and 10-15. Phase 2 would include the park (Parcel A) and Lots 9 and 16-21.

See Sheet 5 of the Tentative Map set for 'out-of-tract improvements' along Diana Avenue and Weichert Drive. Applicant is interested in working with the City to determine the appropriate timing of construction and fee credits for the work performed.

4. A statement of the applicant's intention with regard to sale or lease, and provisions for maintenance of the common area and features.

It is the Applicant's intention to create a for-sale product at Montecito Estates.

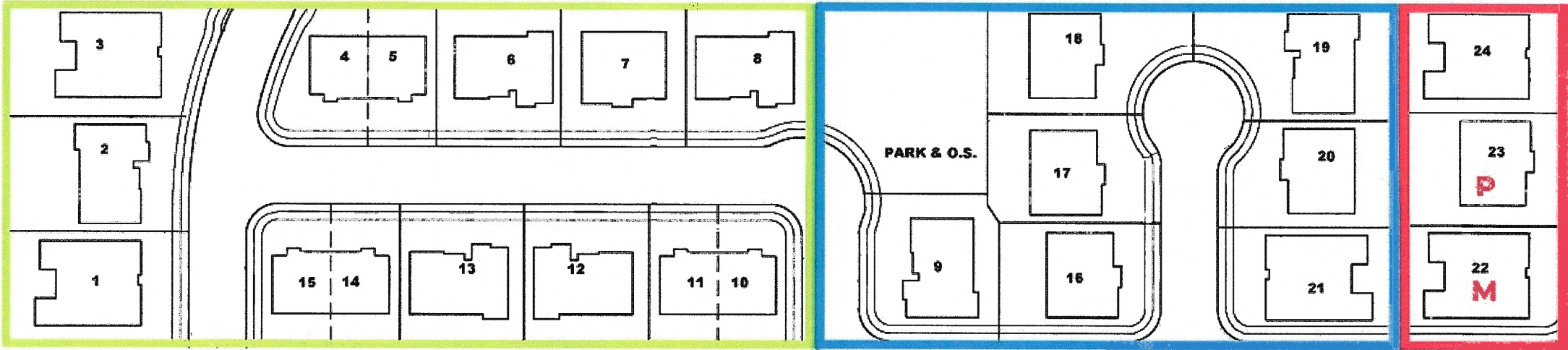
The Applicant anticipates establishing a Homeowner's Association (HOA) with provisions for maintenance of the common area private park and execution of an easement with the homeowner for HOA maintenance of the sidewalks and planter strips.

5. The range of uses to be allowed in the PD, providing sufficient detail to ensure that its purpose may be achieved. A prohibit of certain types of uses and/or a limitation on the number, size of and location of other types of uses may be included.

The objective of the proposed Montecito Estates PD is to remain consistent with the allowed uses in the RDN zoning district that provide for detached single-family homes, in addition to duet units that are limited to corner lots only and to no more than 25% of total dwelling units within the subdivision.

Montecito Estates

Construction Phasing



KEY	
Phase	Lots
1	1-8, 10-15
2	9, 16- 21, Park & O.S.
Model/Sales:	
Lot 22 - Model	
Lot 23 - Model Parking Lot	
Lot 24 - Build out once Sales out of Model complete	

Attachment A

PROJECT EVALUATION

9. PROJECT QUALITY

Intent: Encourage exceptional project design at the neighborhood, site, and building scale.

Total Available Points: 58 points are available within this category (35 points maximum). The maximum score for Criteria 9-A through 9-F is 32. The Planning Commission may award an additional 3 points for Criteria 9-G for a total maximum score of 35.

Criteria 9-A: Exterior Building Design

Standard: Exterior architectural elements support walkable and attractive neighborhoods.

- Up to **13 points** may be awarded to attached projects and **15 points** may be awarded to detached projects for Exterior Building Design. The project may be eligible to receive the total available points for Building Design Features based on Table 49 (below).

TABLE 49: POINTS AVAILABLE FOR EXTERIOR DESIGN	
Building Design Features	Points
a. Front Porches. A minimum of 50 percent of homes facing a street or common interior courtyard include a front porch. Porches must be part of the home's primary entrance, connected to the front yard or common interior courtyard, a minimum of 6 feet by 5 feet, and in full view of the street or common interior courtyard. Multi-family projects may earn points if 50 percent of ground floor units with exterior entrances include a porch.	1 attached 3 detached
b. Balconies Facing Street or Courtyard. A minimum of 25 percent of homes facing a street or common interior courtyard include a balcony overlooking a public space. Balconies must provide usable private outdoor space for residents, be in full view of a street or common interior courtyard, and face away from neighbors' yards to maintain privacy. Multi-family projects may earn points if 25 percent of upper floor units facing a street or common interior courtyard include a balcony.	1
c. Balconies Facing Alleys. A minimum of 25 percent of homes abutting a shared alley include a balcony overlooking the alley, parking area, or drive aisle. Multi-family projects may earn points if 25 percent of upper floor units facing an alley, parking area, or drive aisle include a balcony.	1
d. Façade Articulation and Finishes. Front building facades feature quality façade articulation and finishes to break up blank, flat walls and provide visual interest. Example façade articulation include but are not limited to windows, shutters, awnings, balconies, bay windows, and stone enhancements.	1 attached 3 detached
e. 360-degree Architecture. The project features full and consistent articulation and design detail on all building facades.	1 attached 3 detached
f. Corner Treatments. For projects where the side or rear of a home faces a street or common courtyard street, the project incorporates enhanced treatments of these side and rear facades to support a welcoming and visually interesting public realm.	1
g. Colors and Materials. The project incorporates a mix of exterior finish materials and colors that is compatible with the architecture of the homes and enhances visual interest.	1 attached 3 detached

PROJECT EVALUATION

h. Multi-family Ground Level Entrances. For multi-family residences, the project provides as many private, exterior ground-level entries to individual units as possible.	1
i. Individual Residences – Attached Projects. Large buildings are architecturally subdivided so that they appear as individual residences or small groups of units. Buildings incorporate features such as window bays, balconies, porches and entrance vestibules, varied color schemes, and individual roof volumes to define individual units.	4
j. Residential-Scale Design Elements – Attached Projects. Buildings incorporate design details, including but not limited to porches, projections, eaves, bay windows, and other similar architectural elements, that provide residential scale and help to break up the building mass.	1

Applicant's Answers			Staff Comments	
1.	Comment	Pts	Comment	Pts
a.	All plans have front porches that meet or exceed the requirement for front porches both in size and location. A total of 24 detached homes will have a covered front porch which represents 100% of the project.	3	The criteria requires that a minimum of 50 percent of homes facing a street or common interior courtyard include a front porch that is part of the home's primary entrance. The porch is required to be a minimum of 6 feet by 5 feet, and in full view of the street or common interior courtyard. Plan B does not comply with the porch size requirement; therefore, as proposed 17 units (70%) would comply with this requirement.	3
b.			N/A	0
c.	N/App		N/A	0
d.	The project is designed with enhance façade and articulation through the use of stone, metal seamed accent roofs, non-linear walls and landscape pockets. Limited stucco is present and the use of both vertical and horizontal siding. Enhanced window trim is used on every side of the home. The modern craftsman trim is designed with enhanced wood shingles.	3	The project has demonstrated compliance with criteria.	3

PROJECT EVALUATION

e.	All plans will be designed with 360 architecture as shown in the architecture submittal package Plan B Modern Farmhouse. This will include window pop outs, lapboard, header trim, timed gable vents and base band trim.	3	The project has demonstrated compliance with criteria.	3
f.	Lots 22, 21, 16, 9, 10, 8, 15 and 4 all face a public street. These homes will enhance the rear and side my providing This will include window pop outs, lapboard, header trim, timed gable vents and base band trim.	1	The project has demonstrated compliance with criteria.	1
g.	We have provided a 8 different color schemes that can be used throughout. The colors are complementary for the Ranch, Craftsman and Farmhouse theme and will enhance the architecture. Additional materials include a metal seamed accent roofs, stone façade, decorative garage doors, board and batten siding, shingle siding and little to no use of stucco. Base and 3 & 4 inch exterior window trim are used throughout.	3	The project has demonstrated compliance with criteria.	3
h.			N/A	0
i.	The duet units are designed with front doors facing opposite direction so that the building elevation is enhanced. All units have porches, and varying exterior façade to break up each individual unit.	4	This is not a multi-family attached project. Project does not qualify for points.	0
j.	The attached duets have covered porches and they also have front doors on different sides of the buildings. In addition, there is a projection over the garage to break up the massing as well as a trellis over the garage door.	1	This is not a multi-family attached project. Project does not qualify for points.	0
Sub total	Maximum points: 15	15	Maximum points: 15	13

PROJECT EVALUATION

Criteria 9-B: Building Placement and Massing

Standard: The placement of buildings on lots, orientation of units to the street, and configuration of building height and volume supports a high-quality design environment.

2. Up to **15 points** may be awarded to attached projects and **12 points** may be awarded to detached projects for building placement and massing. The project may be eligible to receive the total available points for Building Placement and Massing Features based on Table 50 (below).

TABLE 50: POINTS AVAILABLE FOR BUILDING PLACEMENT AND MASSING	
Building Placement and Massing Features	Points
a. Entrance Orientation – Collector and Residential Streets. The primary entrance of homes face streets along the project perimeter for projects: • Fronting an existing residential or collector street; or • Located Downtown or in the Monterey Road corridor.	2
b. Entrance Orientation – Single-Family Detached Projects/Arterial Streets. The primary entrances of detached single-family homes outside of Downtown or the Monterey Road corridor do not face an arterial street. Project perimeters along arterial streets feature landscaping, fences, walls, and other improvements that create visual interest and support a pedestrian-friendly environment.	2
c. Variation in Building Height. The project incorporates variation in building heights to minimize monotony and enhance visual interest.	2
d. Variation in Building Placement. The project incorporates variation in building front setbacks and placement on lots to minimize monotony and enhance visual interest.	2
e. Roof Line Variation. Variation in roof lines through changes in roof height and form break of building massing and create visual interest.	2
f. Upper Floor Set Back – Detached Homes. A minimum of 50 percent of detached single-family homes feature second stories stepped back a minimum of 10 feet from the street-facing ground floor building wall.	2
g. Upper Floor Set Back – Attached Homes. Upper floors of attached housing types facing a street are stepped back a minimum of 10 feet from the street-lower floor building wall.	1

PROJECT EVALUATION

h. Height and Project Edge – Attached Projects. The project minimizes building heights along the project edge and locates larger buildings towards the interior of the site.	1
i. Separate Structures – Attached Projects. Large projects divide units into multiple separate structures. Maximum number of units per structure is as follows: • Attached single-family (townhomes): 5 units maximum per structure • Multi-family: 10 units maximum per structure	4
j. Adjacent Building Types– Attached Projects. The project matches building types along project edge with adjacent land that is developed to its ultimate potential use according to the General Plan or applicable zoning. For example, the project locates detached single-family homes along the project perimeter when facing existing detached single-family homes in an area zoned for detached single-family homes.	1

Applicant's Answers			Staff Comments	
2.	Comment	Pts	Comment	Pts
a.	The project maximized the number of homes that face Diana Ave, which is the only existing collector. In addition, all homes were designed to face the public street being created by the project. The street pattern was designed with right angles to slow traffic.	2	The majority of the project is creating streets (not facing existing streets or collectors); however, 3 homes are facing along Diana Avenue, the existing collector. Due to the narrowness of the lot, the project has maximized the number of lots that can face Diana Avenue. The project complies with the requirement.	2
b.	We have enhanced the setbacks on Lots 22, 23 and 24 which front on Diana Ave. Each lot is setback over 34 ft and has enhances landscaping.	2	Staff agrees that enhanced setbacks have been provided along Diana Avenue; however, the subject criteria applies to single-family detached projects located along arterial streets. This project does not face and arterial street.	0
c.	The project provides 12 single story and 12 two story homes. They are intermitently placed throughout the project to create height variation. In addition, the homes were designed with second story setback of 12.5ft as well as varied roof pitches. See plan provided.	2	The project has demonstrated compliance with criteria.	2

PROJECT EVALUATION

d.	The project has plotted homes throughout with varied building envelopes to minimize monotony and enhance the streetscape. Additional staggering can be achieved through the tentative map process and the use of additional minor deviation if requested by staff. Additionally, where there was extra lot width (Ex. Lots 8, 9, 16, 22) the homes was positioned to allow for a greater side yard. The duet homes were designed to with the front doors facing in different directions to enhance the curb appeal.	2	The project has demonstrated compliance with criteria.	2
e.	The project offers both single story and two story homes. The roof lines have breaks and setbacks on the two story homes. Additional, each individual plan has a varied roof pitch given the architectural theme.	2	The project has demonstrated compliance with criteria.	2
f.	All two story homes have a second story stepped back a minimum of 10ft from the street facing ground floor. See exhibit architecture exhibits for Plans A and Duet.	2	The project has demonstrated compliance with criteria.	2
g.	The upper floors on the duet homes are setback 10 feet on the second floor.	1	The criteria does not apply to a single family detached project. In addition, the criteria requires that the upper floors of attached housing types facing a street are stepped back a minimum of 10 feet from the street-lower floor building wall. The plans do not demonstrate this for the specified duets.	0

PROJECT EVALUATION

h.	N/App.		N/A	0
i.	N/App.		N/A	0
j.	Detached homes are located adjacent of the existing detached homes. Attached product is located in the interior of the project.	1	The criteria does not apply to a single family detached project.	0
Sub total	Maximum points: 15	14	Maximum points: 15	10

Criteria 9-C: Site Improvements

Standard: Landscaping and other site improvements contribute to a high-quality design environment.

3. Up to **7 points** may be awarded to projects that provide landscaping and other site improvements. The project may be eligible to receive the total available points for Site Improvements based on Table 51 (below).

TABLE 51: POINTS AVAILABLE FOR SITE IMPROVEMENTS	
Site Improvements	Points
a. Landscaping – Parkway Design. The project provides a landscape parkway along the street 50 percent wider than the minimum required for the street type. Street trees and pedestrian-scale lighting within or adjacent to the parkway exceed minimum requirements and help create a distinctive and memorable design environment. For private streets with no minimum parkway standard, projects may receive points for exceed the width of an equivalent public street standard.	2
b. Landscaping – Visual Relief. Landscaping is placed and designed to minimize the appearance of building bulk and mass and to emphasize building features that create visual interest and support a pedestrian-friendly environment.	1
c. Exterior Lighting. Exterior lighting fixtures are architecturally integrated with the primary building's design, style, material, and colors.	1
d. Entrance Pathways. The project provides a direct pathway connection from a public sidewalk to the primary entrance of each unit or building adjacent to the sidewalk. For buildings and units oriented towards interior common open space, points may be awarded if direct pathway connection is provided from the open space to each unit or building facing the open space.	1
e. Public/Private Transitions. The project includes transition zones between private and public spaces along the street frontage through the use of landscaping, fences, trellises, walls, or a change in floor elevation.	1
f. Mechanical Equipment. All mechanical equipment is screened from the public right-of-way and common areas enclosed with an architecturally compatible structure. Equipment closures are screened through landscaping.	1

PROJECT EVALUATION

Applicant's Answers			Staff Comments	
3.	Comment	Pts	Comment	Pts
a.			N/A	0
b.	Visual interest landscaping design is used by implementing a drought tolerant landscape plan and landscape focal points using trees and natural grass to enhance the project. Trees have been strategically placed to minimize headlight leakage from pass through cars. The cul de sac has greenery and trees plotted between lots 18 & 19 to break up the massing and create privacy. Buffer trees have been used throughout on all units facing side streets. Enhanced setback along Diana in excess of 34 ft.	1	The project has demonstrated compliance with criteria.	1
c.	Exterior Lighting is integrated into the plan with specific lighting type per architectural style. For Example: Farmhouse style has Gooseneck Lighting and the Craftsman, Lantern Lighting on the Craftsman.	1	The project has demonstrated compliance with criteria.	1
d.	The project provides direct access from the sidewalk to the front of the residence for each home.	1	The project has demonstrated compliance with criteria.	1
e.	The project has created a transition zone from the private to public space through the use of low split fence and massing of shrubs and grasses. See Landscape Exhibit L2.	1	The project has demonstrated compliance with criteria.	1
f.	All mechanical equipment is located behind a fence or screened with landscaping. See Landscape Exhibit L1.	1	The project has demonstrated compliance with criteria.	1
Sub total	Maximum points: 7	5	Maximum points: 7	5

PROJECT EVALUATION

Criteria 9-D: Vehicle Parking and Access

Standard: The project minimizes visual impacts from on-site vehicle access and parking facilities.

4. Up to **13 points** may be awarded to projects that minimize visual impact from on-site parking. The project may be eligible to receive the total available points for Vehicle Parking and Access based on Table 52 (below).

TABLE 52: POINTS AVAILABLE FOR VEHICLE PARKING AND ACCESS	
Vehicle Parking and Access Features	Points
a. Garage Door Orientation. Garage doors do not face the front street. Garages are configured on the site such that garage doors face either the side or rear of the property.	3
b. Garage Door Design – Minimizing Visual Dominance. For garage doors that face the front street, garage doors and entrances are designed to be visually subservient to other building elements through methods such as increasing garage door setbacks, incorporating greenery within the driveway, and other methods.	1
c. Garage Door Design - Detailing. Garage doors feature enhanced windows or architectural detailing consistent with the main dwelling.	1
d. Garage Configuration. No more than 50 percent of single-family homes feature an identical garage configuration. Garage configuration may include front loaded attached, front loaded detached, side loaded, and rear loaded garages.	1
e. Parking – Attached Projects. The project locates parking lots serving attached residential units at the rear or side of the site to allow a majority of dwelling units to front on the street or an internal courtyard. Parking is not located between a building and any public sidewalk or street.	1
f. Screening. Parking visible from a public street is screened with fences, walls, and/or landscaping to the greatest extent possible.	1
g. Landscaping – Attached Projects. The project incorporates landscaping to soften the appearance of off-street parking areas and private drive aisles in attached single family and multi-family projects	1
h. Setback Areas. For detached single-family projects, paved areas and hard surface for vehicle access and parking occupies not more than 50 percent of the front and street-side setback area.	1
i. Pavement Design. Areas for vehicle parking and circulation feature enhanced paving finishes such as stone, brick, and colored and textured concrete that complement the architectural style of buildings.	2
j. Clustered Units. Parking for clustered single-family units use a shared driveway that minimizes the amount of overall hardscape and maximizes the amount of landscaping to screen driveway.	1

PROJECT EVALUATION

Applicant's Answers			Staff Comments	
4.	Comment	Pts	Comment	Pts
a.			N/A	0
b.	The garage doors are setback on all plans and landscape pockets are provided adjacent to each side of the garage providing for greenery. Additionally, decorative lighting is used on the side of the garages where relevant.	1	The project has demonstrated compliance with criteria.	1
c.	The garage doors are enhanced through the use of enhanced header, decorative lighting and upgraded garage doors.		The project has demonstrated compliance with criteria. <u>Point was not requested. Planning Commission decided point criteria was met and point should be awarded.</u>	1
d.			N/A	0
e.			N/A	0
f.	Half of the parking required is not visible from the street because it is screened by a garage door.		Criteria does not apply to the project. <u>Point was not requested.</u>	0
g.			N/A	0
h.	The setback area for the detached homes occupy less than 50% of the front and side yard area.	1	The project has demonstrated compliance with criteria.	1
i.	The project is designed with enhanced colored concrete on each private drive that complements the architectural style and colored and scored front walkways.	2	The project has demonstrated compliance with criteria.	2

PROJECT EVALUATION

j.			N/A	0
Sub total	Maximum points: 13	4	Maximum points: 13	5

Criteria 9-E: Public Art

Standard: The project incorporates public art to create a livable and visually stimulating environment.

5. Up to **Three points** may be awarded to projects that incorporate public art into a project. To be eligible for points, the applicant must commit to contribute \$1,000 in artwork funds per unit.

Artwork costs include all costs associated with the selection, acquisition, purchase, commissioning, design, fabrication, placement, installation, or exhibition of the public art. Public art may include sculpture, murals, photography and original works of graphic art, earthworks, fiber works, waterworks, neon, glass, mosaics, or any combination of forms of media, furnishing or fixtures permanently affixed to the building or its grounds, and may include architectural features of the building or elements of landscape design. The creator of public art shall be a practitioner in the visual arts who is not a member of the project engineering, architecture or landscape architecture firm. **One point** will be awarded for every \$1,000 contributed in artwork funds per unit, up to **Three points**.

Applicant's Answers			Staff Comments	
	Comment	Pts	Comment	Pts
	The project commits to \$3,000 per unit for public art.	3	One point will be awarded for every \$1,000 contributed in artwork funds per unit. The applicant has committed \$3,000 per unit for public art.	3
total	Maximum points: 3	3	Maximum points: 3	3

Criteria 9-F: Smart Homes

Standard: The project accommodates or provides home automation devices that are connected to and controlled through a digital network.

6. Up to **4 points** may be awarded to projects that provide home automation/smart homes. The project may be eligible to receive the total available points for Smart Homes based on Table 53 (below).

TABLE 53: POINTS AVAILABLE FOR SMART HOMES	
Standard	Points
a. The project installs home automation devices within units.	1 point for \$1,000 in device value per unit
b. The project installs home automation devices within units that reduce energy consumptions, such as devices that automatically adjust lighting, heating, and air conditioning.	1 point for \$1,000 in device value per unit

PROJECT EVALUATION

Applicant's Answers			Staff Comments	
6.	Comment	Pts	Comment	Pts
a.			N/A	0
b.			N/A	0
Sub total	Maximum points: 4	0	Maximum points: 4	0

Criteria 9-G: Project Excellence

Standard: The project incorporates exceptional features as determined by the Planning Commission.

7. Up to **3 points** may be awarded by the Planning Commission for projects that demonstrate exceptional consistency with policies under Goal CNF-11 in the General Plan City and Neighborhood Form Element. Super-majority means one vote more than a majority vote. When making its decision the Planning Commission will consider information provided by staff. The project may be eligible to receive the total available points for Project Excellence based on Table 54 (below).

TABLE 54: POINTS AVAILABLE FOR PROJECT EXCELLENCE		
Standard		Points
Majority		1
Super-Majority		2
Unanimous		3

Applicant's Answers			Staff Comments	
	Comment	Pts	Comment	Pts
7	The project requests excellence in design given the enhanced architecture and use of 50% of the home as single story and a 48% reduction in water use versus code.	3	A super-majority of the Planning Commission voted to award project excellence points to the project.	2
Sub total	Maximum points: 3	3	Maximum points: 3	2
Total Points Requested by the Applicant			Total Points Recommended by Staff	
35			34	

MAXIMUM POINTS: 35

Montecito Estates Lot Sizes

File Number: SD#2018-0006: Diana-Mana Hanalei

Related File Number(s): ZA#2019-0006; DA#2018-0003; EA#2018-0023

General Plan: Residential Detached Medium (RDM)

Zone District: Residential Detached Medium (RDM) 7,000

RDM-7,000 Minimum Lot Sizes:

Single-Family Lot - 7,000 sq. ft.

Corner Duet Lot – 3,500 sq. ft.

Lot Number	Square Footage (SF)	Consistency?
1	8,297	Yes
2	8,459	Yes
3	9,228	Yes
4	5,319 (duet)	Yes
5	3,862 (duet)	Yes
6	7,002	Yes
7	7,002	Yes
8	7,145	Yes
9	7,847	Yes
10	4,640 (duet)	Yes
11	3,868 (duet)	Yes
12	7,001	Yes
13	7,001	Yes
14	3,868 (duet)	Yes
15	4,649 (duet)	Yes
16	7,502	Yes
17	7,013	Yes
18	7,688	Yes
19	8,167	Yes

Attachment: Diana-Mana Lot Size Details (2484 : Subdivision: Diana-Mana)

20	7,237	Yes
21	8,030	Yes
22	7,750	Yes
23	7,474	Yes
24	7,075	Yes



PLANNING COMMISSION STAFF REPORT

MEETING DATE: October 22, 2019

PREPARED BY: Gina Paolini, Interim Principal Planner
APPROVED BY: Jennifer Carman, Community Development Director

ZA2019-0013- ZONING TEXT AMENDMENT AMENDING SECTION 18.92.030 OF CHAPTER 18.92 SUPPLEMENTAL STANDARDS OF TITLE 18 ZONING OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING THE SEPARATION BETWEEN CONVENIENCE MARKETS.

RECOMMENDATION(S)

1. Open/close public hearing; and
2. Continue the public hearing to the November 12, 2019 Planning Commission meeting.

PROJECT SUMMARY

Staff is requesting a continuance for the Zoning Text Amendment to allow additional time to complete the changes to the proposed ordinance. This Zoning Text Amendment will be continued to the November 12, 2019 Planning Commission meeting.