

**RESOLUTION NO. 21-13**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A DESIGN PERMIT FOR A 249-UNIT, MULTI-FAMILY AFFORDABLE RESIDENTIAL COMMUNITY FOR PROPERTY LOCATED NORTH OF THE MONTEREY ROAD AND MADRONE PARKWAY INTERESESECTION FOR MONTEREY-MINER (JEMCOR) (APN 726-36-059)**

**WHEREAS**, on November 20, 2020, Jemcor Development Partners submitted an application for a Design Permit for a 249-unit, multi-family affordable residential community (SR2020-0027: Monterey-Miner (Jemcor)); and

**WHEREAS**, such requests were considered by the Planning Commission at its meeting of October 26, 2021; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA) the City completed an Initial Study to determine whether the project could have a significant effect on the environment. The Planning Commission of the City of Morgan Hill found that there will not be a significant effect in this case because mitigation measures are included in the project and therefore a Mitigated Negative Declaration was approved and Mitigation Monitoring Plan adopted prior to action taken to adopt the Resolution approving the project; and

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

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

**SECTION 1. Recitals.**

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

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

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

The Planning Division of the City of Morgan Hill prepared an Initial Study and a Mitigated Negative Declaration for the Monterey-Miner Project (Planning File No's. SR2020-0027 and EA2020-0020) in accordance with the requirements of the California Environmental Quality Act of 1970, as amended ("CEQA"), and state and local guidelines implementing CEQA; and

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

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

The City of Morgan Hill 2035 General Plan designates approximately 30 percent of the site as Mixed-Use Flex which permits a mix of residential, commercial, and office uses applied either vertically or horizontally. The Mixed-Use Flex designation allows 7 to 24 units per acre and a maximum Floor Area Ratio (FAR) of 0.5. In addition, 70 percent of the site is Residential Attached Low which allows 6 to 16 dwelling units per acre. Because the proposed project would develop 100 percent deed-restricted affordable housing for lower income households, the proposed project is eligible to utilize an 80 percent density bonus above the base density in accordance with Government Code Section 65915(f)(3)(D)(i), which would allow a maximum density of 33.12 du/ac on the 7.5-acre project site. The proposed project is a multi-family residential use being developed at a density of 33 du/ac. Thus, the project is consistent with the General Plan land use designations with approval of the density bonus. SB 330 supersedes the Municipal Code requirement of a BLMP/PD Master Plan/Conditional Use Permit required for housing on this site.

Finding: The project is subject to the SB 330 permit streamlining process and has been designed consistent with the City's Design Review Criteria and the City's Residential Development Design and Development Standards adopted by City Council Resolution No. 21-018 on April 21, 2021, with three concessions.

The proposed project substantially complies with all applicable design standards and guidelines contained in the Design Review Handbook and the City's adopted Residential Development Design and Development Standards. The project has been granted density bonus design concessions by the City Council. In addition, the project is entitled to design waivers, as allowed by density bonus law. The project has been granted waivers for building height, floor area ratio and setbacks along Taylor Avenue.

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

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

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

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

**SECTION 4.** The Planning Commission approves SR2020-0027: Monterey-Miner (Jemcor). The design shall be expressly conditioned in conformance with conditions incorporated herein and as attached as Exhibit "A". Minor deviations to the site review permit may be approved by the Development Services Director when consistent with the overall intent of the project.

**PASSED AND ADOPTED THIS 26<sup>th</sup> DAY OF OCTOBER 2021, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

<b>AYES:</b>	<b>COMMISSIONERS:</b>	<b>KUMAR, MUELLER, TANDA, DOWNEY</b>
<b>NOES:</b>	<b>COMMISSIONERS:</b>	<b>GONZALEZ-ESCOTO, MUNOZ-MORRIS, HABIB</b>
<b>ABSTAIN:</b>	<b>COMMISSIONERS:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>COMMISSIONERS:</b>	<b>NONE</b>

**ATTEST:**

  
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**JENNA LUNA, Deputy City Clerk**

**APPROVED:**

  
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**MALISHA KUMAR, Chair**

**Date:** Oct 28, 2021

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

**APPLICATION NO: SR2020-0027/EA2020-0020: Monterey-Miner (Jemcor)**

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

### Legend

MHMC= Morgan Hill Municipal Code  
MHARH= Morgan Hill Architectural Review Handbook  
CMH= City of Morgan Hill  
CFC= California Fire Code

## **I. PROJECT DESCRIPTION**

The proposed project would consist of a 249-unit, multi-family affordable residential community. The existing warehouse structure and single-story building within the southwestern portion of the project site would be demolished as part of project development. The 249 units would be distributed throughout two, two-story buildings and 12, three-story buildings. The two, two-story buildings (Building 12 and Building 13) have been designed as two-story structures to soften the transition between the proposed project's three-story buildings and the existing single-family homes east/northeast of the project site on Taylor Avenue.

Of the 249 units, 246 would be affordable to lower income households, and three of the units would be manager's units. The proposed residences would consist of one-, two- and three-bedroom units varying between 617 square feet and 1,122 square feet. An approximate 4,000 square-foot one-story clubhouse would be located to the east of Building 1, near the main project entry on Madrone Parkway. The clubhouse would be accessible to all residents and would include a fitness room, a computer room, a kitchen, a clubroom, a mailroom, and public restrooms. The leasing office and associated workrooms would also be located in the clubhouse.

Parking is being provided at the level of one space per one-bedroom unit, and two spaces per two- and three-bedroom units as required by State law at the time the application was deemed complete.

### Concessions/Design Waivers

1. Parking Space Dimensions: Garage tandem parking spaces have been reduced to 10 feet by 18 feet.

2. Bicycle Parking and Storage: Covered and long-term bicycle parking is not required for the project.
3. Design Standard No. 38- Pavement Design: The Residential Development Design and Development Standards requires projects to incorporate decorative, pervious paving into paved and landscaped areas by 10 percent to reduce the visual impact of paved surfaces. The project has reduced decorative pavement material to 2 percent.
4. Height: The maximum height requirement for development in MU-F zone district is 35 feet and 30 feet within the RAL zone district. The proposed project includes a maximum height of 38 feet.
5. Floor Area Ratio: The maximum FAR for project sites zoned MU-F in the City is 0.5. The project has a maximum FAR of 0.83.
6. Taylor Avenue Setback: The RAL-3,500 requires a 20-foot setback. The project is providing a 15-foot setback.

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

- A. Design Review SR2020-0027
- B. Environmental Assessment EA2020-0020

## II. PROJECT MITIGATION MEASURES

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

### Biological Resources

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

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

- B. **MM- IV-2.** The project applicant shall mitigate for the removal of the Ordinance Sized Trees located within the project site, as identified in the tree survey prepared for the proposed project, by providing an on-site replacement planting at a minimum 1:1 ratio with 15-gallon minimum size trees.

For the Ordinance Sized Trees to be preserved as part of the project, the project applicant shall retain a certified arborist to prepare a tree protection plan, subject to review and approval by the Development Services Department. The plan shall demonstrate how any retained trees are to be protected during and after construction. The tree protection plan may include, but not be limited to, the following:

- Locate structures, grade changes, etc. as far as feasible from the 'dripline' area of the tree.
- Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5 times the 'dripline' area of trees. Where root damage cannot be avoided, roots encountered (over one inch in diameter) should be exposed approximately 12 inches beyond the area to be disturbed (towards 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. Tearing, or otherwise disturbing the portion of the root(s) to remain, shall be avoided.
- A temporary fence shall be constructed as far from the tree stem (trunk) as possible, completely surrounding the tree, and six to eight feet in height. 'No parking or storage' signs shall be posted outside/on the fencing. Postings shall not be attached to the main stem of the tree.
- Vehicles, equipment, pedestrian traffic, building materials, debris storage, and/or disposal of toxic or other materials shall not be permitted inside of the fenced off area.
- The project applicant shall avoid pruning immediately before, during, or immediately after construction impact. Perform only that pruning which is

unavoidable due to conflicts with proposed development. Aesthetic pruning should not be performed for at least one to two years following completion of construction.

- Trees that will be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities, with not more than six pounds of actual nitrogen per 1,000 square feet of accessible 'drip line' area or beyond.
- The 'rooting' area shall be mulched with an acidic, organic compost or mulch.
- The project applicant shall arrange for periodic (Biannual/Quarterly) inspection of tree's condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as such conditions occur, or as appropriate.
- Subject to the discretion of the Development Services Department, individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or a more detailed specification than those contained within the above general guidelines.

### **Geology and Soils**

- C. **MM-VII-1.** All grading and foundation plans for the development shall be designed by a Civil and Structural Engineer and reviewed and approved by the Director of Public Works/City Engineer, Chief Building Official, and a qualified Geotechnical Engineer prior to issuance of grading and building permits to ensure that all geotechnical recommendations specified in the Geotechnical Engineering Study prepared for the proposed project by Geo-Engineering Solutions are properly incorporated and utilized in the project design.

### **Hazards and Hazardous Materials**

- D. **MM-IX-1.** Under the oversight of the Santa Clara County Department of Environmental Health (SCCDEH), the project applicant shall remove all wrecked vehicles and scrap metal from the site prior to implementation of the Workplan for Shallow Soil Remediation prepared by GeoSolve (April 12, 2021). The SCCDEH shall oversee implementation of the Workplan for Shallow Soil Remediation, which shall include, but shall not be limited to, the excavation and disposal of the COCs identified in the environmental investigations conducted by Earth Systems Pacific (March 26, 2020) and GeoSolve (October 5, 2020) by a State-licensed hazardous waste contractor, and the collection of confirmation soil samples to be analyzed by a state-certified hazardous waste testing laboratory for diesel (TEPHd), motor oil (TEPHmo), chromium, lead, and nickel . A qualified field geologist shall be present to observe excavation, disposal, and soil collection activities. The field geologist shall prepare a report summarizing the results of the Workplan for Shallow Soil Remediation upon completion of soil remediation

activities. The report shall be submitted to the City of Morgan Hill Development Services Department for review and approval prior to demolition activities.

- E. **MM-IX-2.** Prior to issuance of a demolition permit for on-site structures, the project applicant shall consult with certified Asbestos and/or Lead Risk Assessors to complete and submit for review to the Building Department an asbestos and lead survey. If asbestos-containing materials or lead-containing materials are not discovered during the survey, further mitigation related to asbestos-containing materials or lead-containing materials shall not be required. If asbestos-containing materials and/or lead-containing materials are discovered by the survey, the project applicant shall prepare a work plan to demonstrate how the on-site asbestos-containing materials and/or lead-containing materials shall be removed in accordance with current California Occupational Health and Safety (Cal-OSHA) Administration regulations and disposed of in accordance with all CalEPA regulations, prior to the demolition and/or removal of the on-site structures. The plan shall include the requirement that work shall be conducted by a Cal-OSHA registered asbestos and lead abatement contractor in accordance with Title 8 CCR 1529 and Title 8 CCR 1532.1 regarding asbestos and lead training, engineering controls, and certifications. The applicant shall submit the work plan to the City for review and approval. The City has the right to defer the work plan to the Santa Clara County Department of Environmental Health for additional review. Materials containing more than one (1) percent asbestos that is friable are also subject to BAAQMD regulations. Removal of materials containing more than one (1) percent friable asbestos shall be completed in accordance with BAAQMD Section 11-2-303.

## Noise

- F. **MM-XIII-1.** Noise-generating construction activities associated with the proposed project and intersection improvements shall not occur within the hours identified in Municipal Code Section 8.28.040(D). The above language shall be included on final project improvement plans prior to issuance of a grading permit by the City of Morgan Hill Development Services Department.
- G. **MM-XIII-2.** To the maximum extent practical, the following measures should be implemented during project construction:
- All noise-producing project equipment and vehicles using internal-combustion engines shall be equipped with manufacturers-recommended mufflers and be maintained in good working condition;
  - All mobile or fixed noise-producing equipment used on the project site that are regulated for noise output by a federal, State, or local agency shall comply with such regulations while in the course of project construction;
  - Electrically powered equipment shall be used instead of pneumatic or internal-combustion-powered equipment, where feasible;



- Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receptors;
- Project area and site access road speed limits shall be established and enforced during the construction period; and
- Nearby noise-sensitive receptors shall be notified of construction schedules so that arrangements can be made, if desired, to limit their exposure to short-term increases in ambient noise levels.

The above requirements shall be included via notation on project grading plans, subject to review and approval by the Development Services Department prior to issuance of a grading permit.

- H. **MM-XIII-3.** Mechanical equipment shall be selected and designed to reduce impacts on surrounding to meet the City's noise level requirements. A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine specific noise reduction measures necessary, if any, to reduce noise to comply with the City's noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and the installation of noise barriers, such as enclosures or parapet walls to block the line-of-sight between the noise source and the nearest receptors. The proposed mechanical equipment systems and noise reduction measures shall be included on project improvement plans and building plans, subject to review and approval by the City of Morgan Hill Development Services Department.
- I. **MM-XIII-4.** During construction activities associated with the proposed project, any compaction required within 26 feet of existing structures adjacent to the project site shall be accomplished by using static drum rollers rather than vibratory compactors. The above requirement shall be included via notation on any grading plans approved for the project to the satisfaction of the City of Morgan Hill Development Services Department.

## Transportation

- J. **MM-XVII-1.** The project applicant shall install a dedicated eastbound left-turn lane on Madrone Parkway to serve the project driveway. The turn lane shall be designed in accordance with City standards and included on project Improvement Plans to be reviewed and approved by the City Engineer.
- K. **MM-XVII-2.** The project applicant shall install a right-turn channelization island at the Monterey Road Driveway with the project site to restrict inbound and outbound left-turns at the driveway. Design of the channelization island shall be included on project Improvement Plans to be reviewed and approved by the City Engineer.

### **III. PROJECT CONDITIONS OF APPROVAL**

This Design Permit approval is limited to the plan set date stamped January 4, 2021 on file (File Number SR2020-0027) with the Development Services Department. The approved building plans and landscape plans must be in substantial conformance with the Design Permit plans as determined by the Development Services Director. These documents show the location and dimensions of all vehicle and pedestrian circulation ways (ingress/egress), common areas, and other easement areas.

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

### **PLANNING DIVISION**

#### **DEFENSE AND INDEMNITY**

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

signature below represents the unconditional agreement by Applicant to be bound by such conditions.

## **TIME LIMITS**

- A. **Term:** The Design Permit approval granted pursuant to this Resolution shall remain in effect for two years to October 26, 2023. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. **(MHMC 18.108.040)**

## **SITE DEVELOPMENT**

- A. **Final Site Development Plans:** Final site development plans shall be reviewed for conformance with the Ruggeri-Jensen-Azar plans dated March 2021 and KTG Architecture and Planning plans dated January 8, 2021 (SR2020-0027) and in accordance with Morgan Hill Municipal Code Section 18.108.040 (Design Permit) and approved by the Development Services Department prior to issuance of a building permit. All such plans shall include:
1. Detail depicting all concrete curbs as full formed.
  2. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing.
  3. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities.
  4. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be architecturally screened from view or located interior to the building. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. **(MHARH p.20, 45, 79)** For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.
  5. All existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.

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

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

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

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

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

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

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

- D. **Electric Vehicle Charging Stations:** The Project shall provide electric vehicle charging stations in compliance with Section 18.72.040.C of the Morgan Hill Municipal Code. The project is required to provide two charging stations, plus one for each additional fifty parking spaces. The developer shall provide location of each charging station prior to issuance of building permit.
- E. **Street Names:** Street names, private or otherwise, used to identify building locations shall be submitted at building permit stage to the Planning Division for approval. Proposed street names shall comply with the Street Naming Policy approved by City Council (Resolution No. 4601).
- F. **Tree Protection:** Unless tree removal has been previously approved, all trees located within 25 feet of any site disturbance shall be protected using the following minimum protection measures (these guidelines shall be included with all site development plans):
1. Mark all trees to be saved with a survey flag or ribbon. Do not nail or staple directly to the tree.
  2. Erect a temporary fence enclosing an area equal to at least the dripline of the tree (or as far from the trunk as possible). This tree protection zone shall not be used for parking, storage of building materials, or other equipment or the placement of temporary or permanent fill. Signs should be posted identifying the restriction of uses in the tree protection zone.
  3. Locate structures, grade changes, and other ground or surface disturbances (e.g. concrete pours) as far as feasible from the "dripline" area of the tree.
  4. Avoid root damage through grading, trenching, and compaction, at least within an area 1.5 times the dripline area of the tree. Where root damage cannot be avoided, roots encountered over 1 inch in diameter should be exposed approximately 12 inches beyond the area to be disturbed (towards the tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or power saw and immediately back-filled with soil. Avoid tearing or otherwise disturbing that portion of the roots to remain.
  5. The addition of plant or other landscaping materials shall remain outside of the dripline of all trees.
  6. All trees proposed to be removed from the project site shall be replaced at a 1:1 ratio. Replacement trees shall be consistent with the City of Morgan Hill Master Street Tree. All replacement trees shall be a minimum of 15-gallons in size. All mitigation/replacement trees shall be shown on the landscape plans and approved by the Development Services Director prior to the issuance of the building/grading permit.

7. Any tree subject to Chapter 12.32 Restrictions on Removal of Significant Trees of the Morgan Hill Municipal Code requires approval from the Planning Division. The applicant shall request approval prior to removing any significant trees.

## **BUILDING DESIGN**

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

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

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

**Table 18.72-6: Minimum Required Parking Lot Landscaping**

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

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

- C. **Lighting:** Walkways and pedestrian pathways in landscaped areas or common areas not considered building entrances or a part of parking lot areas shall be illuminated with a minimum of one (1) foot-candle to ensure safe nighttime conditions. **(MHARH p.30, 67, 108)**
1. A final photometric plan shall be provided at the building permit stage for review and approval to the Development Services Director prior to issuance of a building permit.
- D. **Maintenance of landscaping:** The landscaping installed and accepted with this project shall be maintained on the site as stated within the approved plans. Any alteration or modification to the landscaping shall not be permitted unless otherwise approved by the Development Services Director.
- E. **Water Conserving Landscape Ordinance:** The landscape plans shall be in conformance with the City's Water Conserving Landscape Ordinance that was developed in accordance with California law. This Ordinance restricts landscaping turf to certain areas, specifies plant selection, requires certain types of irrigation equipment, and calls for the development of comprehensive water use calculations as an aspect of the submitted landscape plans. **(MHMC 18.64)**
- F. Fencing: A decorative iron fence, with automatic locking egress gate shall be installed along the Taylor Avenue frontage.**

#### **SIGNS**

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

#### **HABITAT PLAN**

- A. **Fees:** The approved project is covered pursuant to the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.
- B. **Application Package:** Prior to issuance of a grading permit, the project shall complete and submit a Habitat Plan Application Package. All fees shall be paid prior to issuance of a grading permit. **(MHMC 18.132)**



- C. **Conditions:** Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt). **(MHMC 18.132)**

#### **AIR QUALITY**

- A. **Basic Construction Mitigation Measures (BCMMs) related to dust suppression.** The following measures shall be implemented with the project:
1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  8. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

#### **CULTURAL RESOURCES**

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

inadvertently discovered human remains or archaeological materials shall apply:

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

and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need to know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.

- b. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
  - c. Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.
4. In the event that known or suspected Native American remains are encountered, or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, ground stone mortars and pestles), culturally altered ash stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials and historic structure remains such as stone lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the exclusion zone as defined below.
  5. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the contractor foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the monitoring archaeologist and tribal representative (typically twenty-five to fifty feet for single burial or archaeological find).
  6. The discovery locale shall be secured (e.g., 24-hour surveillance) as directed by the City or County if considered prudent to avoid further disturbances.
  7. The contractor foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition:
    - The City of Morgan Hill Development Services Director (408) 779-7247

- The Contractor's Point(s) of Contact
  - The Coroner of the County of Santa Clara (if human remains found) (408) 793-1900
  - The Native American Heritage Commission (NAHC) in Sacramento (916) 653-4082
  - The Amah Mutsun Tribal Band (916) 481-5785 (H) or (916) 743-5833 (C)
  - The Tamien Nation (707)295-4011 (office) and (925)336-5359 (THPO)
8. The Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American the Coroner has 24 hours to notify the NAHC.
  9. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD). (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
  10. Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.
  11. Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Development Services Director the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the appropriate tribe may be considered and carried out.
  12. If the MLD recommendation is rejected by the City of Morgan Hill the parties will attempt to mediate the disagreement with the NAHC. If mediation fails, then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

## **NOISE**

- A. **Construction Hours:** The project shall comply with Chapter 8.28 of the Morgan Hill Municipal Code which prohibits construction activities between 8:00 PM and 7:00 AM, Monday through Friday, and between 6:00 PM and 9:00 AM on Saturdays. Construction activities may not occur on Sundays or federal holidays.

## **GENERAL**

- A. **Mitigation Fee Act:** Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in

Government Code Section 66000) in connection with approval of this development project for the purpose of defraying all or a portion of the cost of public facilities related to this development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected as part of development agreements, or as a part of the application for the City's Residential Development Control System. The Mitigation Fee Act Fees applying to this project are listed in the schedule of fees to be provided at building permit stage. Notice is also hereby given that the Developer has an opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval or conditional approval of this development project and that the 90-day protest period has begun.

**B. Covenants, Conditions and Restrictions:** The applicant shall provide a set of Covenants, Conditions and Restrictions (CC&R's), Bylaws and Articles of Incorporation, for review and approval by the Development Services Director prior to final occupancy or recordation of a final map. All such CC&Rs shall include the following:

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

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

2. The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within thirty (30) days of the mailing or delivery of such notice, the City shall have standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.
3. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with

the Project and shall be the personal responsibility of the Owners and the Association.

4. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
5. This section may not be amended without the prior written consent of the Development Services Director for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
6. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance obligation or duty of maintenance is increased by such amendment.

## **ENGINEERING DIVISION**

### **PROJECT SPECIFIC**

- A. **STORMWATER:** Although this project is located within the jurisdiction of the San Francisco Bay (Region 2) Regional Water Quality Control Board (RWQCB), the City's Residential Development Design and Development Standards require that the project comply with the requirements of the Central Coast Region (Region 3) as documented by the Stormwater Management Guidance Manual for Low Impact Development & Post-Construction Requirements ("Stormwater Guidance Manual"). In addition, since the City's National Pollutant Discharge Elimination System (NPDES) Permit was issued by the Central Coast Region (Region 3), the NPDES Permit provisions can be applied to this project. The project shall comply with the following at improvement plan/building permit stage:
  1. Add complete Hydrograph model results in the final Stormwater Control Plan/Report (SWCP) to confirm drawdown times.
  2. Perform site-specific infiltration tests at the locations of the proposed underground infiltration facilities at appropriate depths corresponding to the bottom of BMP facilities. Additional review of the underground infiltration facilities will be performed at improvement plan/building permit stage after results of site-specific infiltration tests are obtained.

3. Submit the analysis and drainage calculations for the site's detention/retention facilities.
4. Show a site-specific construction detail for the underground infiltration facilities.
5. Provide verification that the Stormchamber includes enough sediment trap devices (i.e. pretreatment devices) throughout the Stormchamber manifold to meet water quality treatment requirements.
6. Provide verification that there are adequate inspection ports in the Stormchamber for operation & maintenance.
7. Include specific details and notes on the Erosion Control Plan to protect the Stormchamber areas until construction is complete & stabilized.
8. The project's final SWCP shall include the following:
  - a. Completed hydrograph model results to confirm drawdown times.
  - b. Signed and dated Performance Requirement Checklists.
  - c. A copy of the project's Stormwater BMP Operation & Maintenance Agreement.
  - d. An Operation & Maintenance Plan that includes all items listed in Section 8 of the Stormwater Management Guidance Manual.
9. Trash Enclosure Areas:
  - a. Show the pad for the enclosure designed to drain inward, and the grade surrounding the enclosure designed to not drain into the enclosure.
  - b. Within the trash enclosure, install an area drain with an approved (Zurn) vandal proof drain and plumb to the sanitary sewer system with grease trap. Locate the grease trap within the trash enclosure footprint.
10. Direct runoff from the proposed dog park area away from the existing offsite, privately-owned Madrone Business Park stormwater quality basin that is located on APN: 726-35-021.

**B. STREET IMPROVEMENTS**

1. The widths of the driveway approaches at Monterey Road and Madrone Parkway shall be 24'.
2. At improvement plan/building permit stage, upgrade the existing curb ramp on the northeast corner of the Monterey Road/Madrone Parkway intersection to current American with Disabilities Act (ADA) standards to be consistent with the City's Street Standard Details.
3. Detailed review of the proposed street improvements, including Broadband design, will be performed at the improvement plan stage.
4. At improvement plan stage, the project will be required to evaluate the pavement condition of Monterey Road and improve the street, as necessary, to meet current City standards for arterials. Evaluation may involve pavement core sampling at multiple locations to the satisfaction of the City Engineer.
5. **Traffic Mitigation Measures:** At improvement plan stage, show the

following traffic mitigation measures on the improvement plans for City review:

- a. Dedicated eastbound left-turn lane on Madrone Parkway to serve the project driveway.
  - b. Right-turn channelization island at the Monterey Road driveway to restrict inbound and outbound left-turns at the driveway.
6. **Bus Stop Improvements:** At improvement plan stage, the plans shall be referred to Valley Transportation Authority (VTA) to confirm the required bus stop placement and bus stop improvements.

### C. UTILITIES

1. Align the 6" sewer lateral perpendicular to the existing City sewer main at Monterey Road in accordance with City Standard drawings S-2 and S-3. There shall be no direct lateral connections into City sewer manhole facilities.
2. The project's fire service(s) shall be reviewed at improvement plan/building permit stage and is subject to the approval by the City Engineer and the City's Fire Prevention Division. The fire service(s) shall be separate from the private, on-site domestic water main and shall have a separate public lateral tap.
3. The project's irrigation service(s) shall have a separate public lateral tap.
4. **Private Sanitary Sewer Maintenance Agreement:** Prior to building permit issuance or prior to building final, the Owner(s) shall enter into a Private Sanitary Sewer Maintenance Agreement with the City for maintenance of all private sanitary sewer facilities which includes the private sewer mains, sewer laterals, force main and lift station. The Agreement shall be recorded at the County Recorder's Office prior to building final.

### GENERAL

- A. **Public and Private Improvements:** The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. **(MHMC 12.02.090 A; 17.32.010 A)**
- B. **Improvement Plans:** The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the project and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the City Engineer. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**
  1. Improvement plans are to show water lines, sanitary sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- C. **Encroachment Permit:** Obtain an encroachment permit from the City of Morgan



Hill and provide guarantee covering off-site improvements. (MHMC 12.08.040 A; 12.08.090)

- D. **Improvement Agreement:** Enter into an Improvement Agreement] with the City of Morgan Hill to cover required improvements. (MHMC 12.02.150; 17.32.010 B; 17.32.160)
- E. **Impact Fees and Fee Increase:** The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established impact fees to finance the cost of improvements required by new development. City Code Chapter 3.56.050 provides for automatic annual (July 1st) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. The City maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours. (MHMC 3.56.010; 3.56.030; 3.56.050)
1. The developer shall pay all applicable impact fees and other engineering review fees prior to building permit issuance and at building final. The fees shall be based on the Public Works Fee Schedule prepared by Land Development Engineering.

## **STREET IMPROVEMENTS**

- A. **Public and Private Streets:** The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the City Engineer. All street improvements shall be constructed to the satisfaction of the City Engineer. The timing of the improvements will be determined by the City. (MHMC 12.02.010; 12.02.090; 17.32.060 B; CMH General Plan; CMH Design Standards and Standard Details for Construction)
- B. **Installation and Dedication of Streets:** The project shall install and dedicate street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting in conformance with City of Morgan Hill requirements. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010; 17.32.060)**
- C. **Right-of-Way Dedications:** The project shall dedicate a total of 55 feet from center line of public right-of-way on Monterey Road and Taylor Avenue. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.90; 12.02.100; 17.28.010)**
- D. **Corner Cutoff Dedication:** The project shall dedicate the required corner cutoff

at the intersection of Monterey Road and Madrone Parkway. **(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)**
- F. **Street Trees:** The proposed street trees shall comply with the street tree species and spacing listed under the applicable zone in the Master Street Tree List of the City's Master Street Tree Plan.

### **SANITARY SEWER SYSTEM**

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

### **STORM DRAIN SYSTEM**

- A. **Storm Drainage Study:** A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the City Engineer. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. **(MHMC 17.32.020 B; 17.32.090; CMH Design Standards and Standard Details for Construction)**
- B. **Storm Drainage Design:** The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Design Review plans. All storm drain improvements shall be constructed to the satisfaction of the City Engineer. **(MHMC 17.32.020 A & B)**
- C. **Storm Drainage Capacity:** Collection system shall be designed to be capable of handling a 10-year storm without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity. Streets shall be designed to carry 100-year storm. Items of construction shall include, but not be limited to installation of

storm line extension on proposed public street(s), surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows. **(MHMC 17.32.020 B; 18.74.440; CMH Design Standards and Standard Details for Construction; CMH Storm Drainage System Master Plan)**

D. **Storm Drainage General Requirements:** Prior to final map approval or issuance of a grading permit, the applicant shall complete the following to the satisfaction of the City Engineer.

1. Storm drain calculations to determine detention/retention pond sizing and operations.
2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.  
**(CMH Design Standards and Standard Details for Construction)**

E. **NPDES Construction Activity General Permit/SWPPP Requirements:** As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number to be issued to the construction site after the SWRCB receives and verifies the submitted ONLINE NOI information. The WDID number and approved SWPPP Manual shall be provided to Public Works and the Building Department prior to any approval of grading activities **(SWRCB NPDES General Permit CA000002)**.

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

1. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP or RCE)**.

2. SWPPP Inspections shall occur weekly during the rainy season (September 15<sup>th</sup> thru May 1<sup>st</sup>).
3. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
4. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.
5. Per each of the inspection conditions 2, 3, or 4, the NPDES SWPPP Inspector shall certify in writing to the Building 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.
10. BMPs maintenance/inspections shall include tree protection if applicable.

## **WATER SYSTEM**

- A. **Domestic Water System:** The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the City Engineer. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the City Engineer and dedicated to the City. **(MHMC 17.32.020 A & D; CMH Design Standards and Standard Details for Construction; CMH Water System Master Plan)**
- B. **Water Well Abandonment:** Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD) Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.
- C. **Water Master Meter:** All residential units are being served by one master public meter and shall be privately sub-metered as allowed pursuant to Section 13.04.130.C of the Morgan Hill Municipal Code. The owner of a multi-unit residential development that includes habitable dwellings, may, upon compliance with the following, install separate private submeters to each residential unit in lieu of installing separate public meters directly to the municipal water system:

1. The owner shall obtain approval/permit from the Public Works Department for the submeter system.
  - a. Any submeters shall accurately and completely measure all water consumed from the municipal water system.
  - b. The owner shall agree to charge the tenant of each unit a water utility charge strictly based on the consumption by the occupants of the unit.
  - c. Installation, maintenance and monitoring of the submeter system shall be the responsibility of the owner, and in no circumstances shall the city be responsible.
  - d. If any water conservation plan is implemented or imposed by the city, the owner shall be responsible for complying with any reductions required by such plan as measured by consumption on the meter(s) directly connected to the municipal water system.
2. Failure to abide by the above conditions, and/or any other conditions the city may impose, may result in revocation of any permit issued and/or other action as authorized by law, such as at the owners expense install individual public water meters for each unit.
3. Owner/developer shall provide an agreement with the City to cover/outline the requirements of section 13.04.130.C of the Municipal Code to be reviewed and approved by the City Engineer or designee.
4. Records of bookkeeping and private sub-metering usage shall be accurately maintained digitally. Upon request from the City, records shall be produced to the city within a 24-hour period.

#### **OTHER CONDITIONS**

- A. **Easement Dedications:** The owner shall dedicate all necessary utility easements. **(MHMC 12.02.080 D; 17.28.010 A)**
- B. **Undergrounding new utilities:** The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the City Engineer. **(MHMC 17.32.020 E.1)**
- C. **Landscaping and Irrigation Systems:** Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the property owner or designated maintenance entity.
- D. **Final Landscape Plans:** Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**
- E. **Pre-construction Meeting:** Prior to the approval of any Building Permit for

grading activity, the developer shall schedule a pre-construction meeting with the Public Works Inspection Division with the following project team members:

1. Civil Engineer of record
2. Geotechnical Engineer of record
3. Third Party QSD/QSP SWPPP Inspector
4. General Contractor
5. Sub-Contractors

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

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

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

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

- B. **Peak Storm Water Runoff Discharge Rates** - Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows.

- C. **Provide Storm Drain System Stenciling and Signage** - Storm drain stencils are highly visible source controls that are typically placed directly adjacent to storm drain inlets. The stencil contains a brief statement that prohibits the dumping of improper materials into the storm water conveyance system. Graphical icons, either illustrating anti-dumping symbols or images of receiving water fauna, are effective supplements to the anti-dumping message. All storm

drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: "NO DUMPING – DRAINS TO CREEK") and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area. Legibility of stencils and signs must be maintained.

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

1. Volumetric Treatment Control BMP

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

2. Flow Based Treatment Control BMP

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

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

1. The stormwater runoff management plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved stormwater runoff management plan.

2. The City 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.

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

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

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

**H. Stormwater BMP inspection responsibility**

1. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a **certified Qualified Stormwater Practitioner (QSP)**.
2. Unless otherwise required by the chief engineer or designee, stormwater facility inspections shall be done at least twice per year (April 15<sup>th</sup> and September 15<sup>th</sup>) by the QSP. Written records shall be kept of all



inspections and shall include, at minimum, the following information:

- a. Site address;
- b. Date and time of inspection;
- c. Name of the person conducting the inspection;
- d. List of stormwater facilities inspected;
- e. Condition of each stormwater facility inspected;
- f. Description of any needed maintenance or repairs; and
- g. As applicable, the need for site re-inspection.

3. Upon completion of each inspection, an inspection report shall be submitted to Land Development Engineering.

I. **Records of maintenance and inspection activities** - On or before April 15<sup>th</sup> and September 15<sup>th</sup> of each year, the party responsible for the operation and maintenance of on-site stormwater management facilities under the BMP operation and maintenance agreement shall provide the chief engineer or designee with records of all inspections, maintenance and repairs.

J. **Annual Certification of SWRMP** – On or before September 30<sup>th</sup> of each year a Registered Civil Engineer (RCE) shall provide written certification that the developments stormwater quality design standards are properly maintained and functioning as required by the SWRMP.

### **BUILDING DIVISION**

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

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

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

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

### **FIRE DIVISION**

- A. **Proposal limited to:** Review of this Development proposal is limited to acceptability of site access as they pertain to fire department operations and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
- B. **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 15.44.120)**
- C. **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.
- D. **Timing of Required Roadway Installations:** Prior to the commencement of combustible construction, the required roadway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the City of Morgan Hill unless otherwise approved in writing by the Fire Marshal. Bulk combustible construction materials shall not be delivered to the construction site until installations are completed as stated above. During construction, emergency access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed. **(CFC Chapter 14 as amended by MHMC)**
- E. **Timing of Required Water Supply Installations:** Prior to the commencement of combustible construction, the required Fire Hydrant and Water Supply installations shall be in place, inspected, tested, and accepted by the Fire Department and the City of Morgan Hill, unless otherwise approved in writing by the Fire Marshal. Bulk construction materials may not be delivered to the construction site until installations are completed as stated above. Clearance for building permits may be held until installations are completed. **(CFC Chapter 14 as amended by MHMC)**
- F. **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)**
- G. **Automatic Fire Sprinkler System Required:** Buildings requiring automatic fire

sprinkler system shall be equipped throughout with an approved automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA) Standard #13. **(CFC Chapter 9 as amended by MHMC 15.44.140)**

- H. **Required Access to Buildings.** Portions of the structure(s) are greater than 150 feet of travel distance along an accessible travel path from an approved fire apparatus access roadway or driveway. Provide an approved fire apparatus roadway/driveway with an approved turn-around OR provide an approved type residential fire sprinkler system throughout all portions of the building. **(CFC section 503 as amended by MHMC 15.44.120)**
- I. **Private on-site Fire Service Mains and Hydrants:** Installations shall conform to National Fire Protection Association Standard #24, and the City of Morgan Hill Standard Details and Specifications. Provide plan submittal to the City of Morgan Hill for review and approval prior to installation.
- J. **Aerial Fire Apparatus Access Roads:** Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.
1. Width: Fire apparatus access roads shall have a minimum unobstructed width of 25 feet (7925) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.
  2. Proximity to building: At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572) and a maximum of 30 feet (9144mm) from the building and shall be positioned parallel to one entire side of the building, as approved by the fire code official.
- K. **Parking Along Roadways:** The required width of fire access roadways shall not be obstructed in any manner. Parking shall not be allowed along roadways less than 28 feet in width. Parking will be allowed along one side of the street for roadways 28-35 feet in width. For roadways equal to or greater than 36 feet, parking will be allowed on both sides of the roadway. Roadway widths shall be measured face to face of curb. Parking spaces are based on an 8-foot-wide space. **(CFC Section 503)**
- L. **Requirements for Secondary Access Roads (Shall be completed prior to exceeding 101 units)**
1. Separation of access roads. Where two access roads are required, they

shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses (from centerline to centerline).

2. Connection to other roads: Where a secondary access roadway connects to a public or private street there shall be either; no curb, a rolled curb or a driveway cut as approved by the fire code official.
3. Easements: Only lands owned or in control of the property owner, held in common with adjacent properties or publicly owned may be used for secondary access. Secondary access roadways shall not be located in easements through private property unless specifically approved by the fire code official. When easements are required for secondary access roadways, they shall be recorded as Emergency Vehicle Ingress Egress Easements (E.V.I.E.E) granted to the Fire Department.

#### **POLICE DEPARTMENT**

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

#### **HOUSING DIVISION**

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


# Resolution No. 21-13 - Design Permit-Revised

Final Audit Report

2021-10-28

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