



CITY OF MORGAN HILL

Development Services Center – Planning Division

17575 Peak Avenue Morgan Hill CA 95037

APPROVAL CERTIFICATE NO. 22-09

APPLICATION NUMBER: Design Permit SR2021-0013: Concord – Anaerobe Systems

LOCATION: Southwest quadrant of Tennant and Railroad Avenue or 15906 Concord Circle (APN 817-06-059).

SITE AREA: 1.41-acre site

GENERAL PLAN: Industrial (I)

ZONING: Light Industrial (IL)

DESCRIPTION: A Design Permit for the construction of a new one-story 4,000 square-foot fermentation research facility with a 500 square-foot covered patio that will also produce solid and liquid organic fertilizer. The proposed site plan will also provide 15 new parking spaces and a new trash enclosure for the new building. Development of the site will require removal of two oak trees, which will be replaced with four replacement trees on-site.

RECITALS

1. On August 12, 2021, the Development Services Department received an application for Design Permit approval to construct a 4,500 square foot fermentation research facility that will also produce organic liquid fertilizer. Pursuant to Municipal Code Section 18.108.040.C.4 (Design Permit), projects with new non-residential buildings, structures, or physical site improvements visible from the public right-of-way and determined to be significant must receive Design Permit approval prior to development;
2. The project was reviewed by the Development Review Committee (DRC) at its regular meeting of September 1, 2021 and comments were received from the various departments;
3. The proposed project was reviewed in compliance with the California Environmental Quality Act (CEQA). The project was found to be exempt from CEQA pursuant to Section 15332 Class 32 and also Section 15303 Class 3 and does not meet any of the exceptions to categorical exemptions set forth in Section 15300.2 of the CEQA guidelines. A categorical exemption memorandum has been prepared;
4. Comments received from the public and from the applicant, along with exhibits and drawings and other materials have been considered in the review process;

5. On May 17, 2022 the Development Services Department considered said application at the close of a duly noticed 10-day public comment period; and,
6. Pursuant to the authority set forth under Section 18.108.040 (Design Permit) of the Morgan Hill Municipal Code, the Development Services Director hereby approves the project application subject to the conditions contained within this approval certificate.

FINDINGS

SECTION 1. Design Permit Findings

The following findings are made for the purposes of approving a Design Permit in accordance with Section 18.108.40 (J.) of the Morgan Hill Municipal Code.

1. The proposed project is consistent with the General Plan and any applicable specific plan, area plan, or other design policies and regulations adopted by the City Council.

The proposed fermentation and fertilizer research facility is considered a research and development use, which is consistent with the allowed uses within the Industrial General Plan land use and Light Industrial zoning designation.

2. The proposed project complies with all applicable provisions of the zoning code and municipal code.

The proposed site plan complies with all provisions of the Zoning Code and municipal code including the development standards of the Light Industrial zone district, parking standards, trash enclosure standards, and tree preservation and landscaping requirements. Compliance with these standards will also be part of the conditions of approval for the project and verified at the building permit stage of the project.

3. The proposed project complies with all applicable design standards and guidelines contained in the City's Design Review Handbook.

The project has been designed in conformance with the City's Design Handbook, Municipal Code, and Zoning Ordinance.

4. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

The Development Services Director hereby finds that, based on the whole record before it, that the project is exempt from CEQA pursuant to Section 15332 Class 32 and also Section 15303 Class 3 and does not meet any of the exceptions to categorical exemptions set forth in Section 15300.2 of the CEQA guidelines. The custodian of the documents or other material which constitute the record shall be the Development Services Department.

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

The proposed building is within an existing industrial area and is completely surrounded by urban development including a major street in Tennant Avenue, Union Pacific railway, and also other light industrial uses. The proposed building is set back to the most extend possible from both the railway as well as Railroad Ave and Tennant Avenue. The research on fermentation and fertilizer is an existing use and has not been detrimental to the surrounding public health, safety, and welfare.

SECTION 2. Pursuant to the authority set forth under Section 18.100.030 and 18.108.040 of the Morgan Hill Municipal Code, the Development Services Director hereby approves the project application subject to the attached conditions of approval outlined in Exhibit A.

APPROVED THIS 17th DAY OF MAY, 2022.



Jennifer Carran
Development Services Director

A F F I D A V I T

I, Mike Cox hereby agree to accept and abide by the terms and conditions specified in this approval certificate.

Mike Cox

Michael Cox
Anaerobe Systems

May 18, 2022

Date

EXHIBIT "A"
STANDARD CONDITIONS

APPLICATION NO: SR2021-0013: Concord – Anaerobe Systems

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

Legend

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

I. PROJECT DESCRIPTION

The project includes the construction of a new one-story 4,000 square-foot fermentation research facility with a 500 square-foot covered patio that will also produce solid and liquid organic fertilizer. The proposed site plan will also provide 15 new parking spaces and a new trash enclosure for the new building. Development of the site will require removal of two oak trees, which will be replaced with four replacement trees on-site

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

- A. Design Review SR2021-0003
- B. Environmental Analysis EA2021-0011

II. PROJECT CONDITIONS OF APPROVAL

This Design Permit approval is limited to the plan set date stamped May 17, 2022 on file (File Number SR2021-0013) 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 hereby incorporated herein as set forth in full.

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 Approval Certificate shall remain in effect for two years to May 17, 2024. 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 18.104.210)**

SITE DEVELOPMENT

- A. Final Site Development Plans:** Final site development plans shall be reviewed for conformance with SR2021-0013 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:

- i. 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. 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**
 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.
 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 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)**

HABITAT PLAN

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

AIR QUALITY

- A. **Dust, Noise, Vibration and Materials Management Plan:** A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be submitted for review prior issuance of a grading permit and requirements shall be included on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. **(MHMC 18.76)**
1. All exposed surfaces 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.
 2. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
 3. 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.
 4. 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.
 5. 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.
 6. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
 7. 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.

8. 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.
9. Minimizing the idling time of diesel-powered construction equipment to two minutes.
10. 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.
11. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
12. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
13. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy-duty diesel engines.

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 archaeologist and Tamien Nation Tribal Monitor shall hold a pre-construction meeting for the purposes of "cultural sensitivity training" with the general contractor and subcontractors.
 2. 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 will halt immediately within fifty feet of the find. If an archaeologist is not present at the time of the discovery, the applicant shall contact an archaeologist for evaluation of the find to determine whether it qualifies as a unique archaeological resource as defined by this chapter;
 - b. If the find is determined not to be a Unique Archaeological Resource,

- construction can continue. The archaeologist will prepare a brief informal memo/letter in collaboration with a tribal representative that describes and assesses the significance of the resource, including a discussion of the methods used to determine significance for the find;
- c. If the find appears significant and to qualify as a unique archaeological resource, the archaeologist will determine if the resource can be avoided and will detail avoidance procedures in a formal memo/letter; and
 - d. If the resource cannot be avoided, the archaeologist in collaboration with a tribal representative shall develop within forty-eight hours an action plan to avoid or minimize impacts. The field crew shall not proceed until the action plan is approved by the Development Services Director. The action plan shall be in conformance with California Public Resources Code 21083.2.
3. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply. If human remains are discovered, it is probable they are the remains of Native Americans,
- a. If human remains are encountered, they shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need to know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.
 - b. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
 - c. Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.
4. In the event that known or suspected Native American remains are encountered, or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, ground stone mortars and pestles), culturally altered ash stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials and historic structure remains such as stone lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the exclusion zone as defined below.
5. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the contractor foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time

- or 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. **Signed copies of Approval Certificate:** Submit two (2) signed copies of the Approval Certificate 22-09 to the Planning Division prior to issuance of a building permit.

BUILDING DIVISION

- A. Project shall be designed to comply with the current edition of the California Codes of Regulations as amended by the Morgan Hill Municipal Code Title 15.
- B. The Project shall be designed under the supervision of a Licensed Architect or Professional Engineer. That professional shall stamp and sign all plan sheets that is under their supervision.
- C. Project shall comply with the Morgan Hill Municipal Code (MHMC) including but not limited to:
- MHMC 15.65 Sustainable Building Regulations. **16 LEED points required**
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodetid=TIT15BUCO_CH15.65SUBURE
 - MHMC 18.72.040 C. Electric Vehicle Charging.
 - MHMC 15.40 Building Security
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodetid=TIT15BUCO_CH15.40BUSE
 - MHMC 15.38 Wage Theft Preventions
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodetid=TIT15BUCO_CH15.38WATHPR
 - MHMC 18.148 Water Conservation
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodetid=TIT18ZO_DIVIIDECO_CH18.148WACO

- MHMC 15.63 Prohibition of Natural Gas Infrastructure in New Buildings
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodetd=TIT15BUCO_CH15.38WATHPR
- D. An acoustical analysis report shall be submitted with the building permit documents showing interior and exterior noise mitigations for compliance to the MHMC, California Building Code and CALGreen Code.
- E. A Geotechnical Investigation Report is required for this project.
- F. Accessible route to each story level maybe required per California Building Code 11B-206.2.3
- G. If an EV Parking Spot is required by MHMC 18.72.040 C the required EV charging station parking spot shall be accessible as required by California Building Code 11B-228.3. Identify location and show compliance on the plans.
- H. On-site parking and paths shall comply with the lighting requirements of MHMC 15.40 Building Security. Photometric plans required
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodetd=TIT15BUCO_CH15.40BUSE

FIRE DIVISION

- A. **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.
- B. **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.
- C. **Fire Department Key Box Required.** The building shall be equipped with a permanently installed emergency access key lock box (Knox), conforming to the City of Morgan Hill Standard Detail and Specification sheet 11-I. At time of final inspection, access keys shall be provided to the fire department.
- D. Provide new fire service and DDCV with FDC for proposed building. The underground fire service shall be a deferred submittal.

ENVIRONMENTAL SERVICES DIVISION

- A. Landscape and irrigation plans must comply. Please provide all required contents and with the standards set forth in MHMC 18.46 Landscaping, MHMC 18.148 Water

Conservation in Landscaping. Full landscape plans, drafted in compliance with the Morgan Hill Municipal Code (MHMC) 18.148 – Water Conservation and 18.64 - Landscaping, must be provided and reviewed before the issuance of any building permit. The landscaping and irrigation package must contain the following items:

- a. Project information:
 - i. Date;
 - ii. Project applicant;
 - iii. Project address (if available, parcel and/or lot numbers);
 - iv. Project type (e.g., new, rehabilitated, public, private, cemetery, homeowner-installed);
 - v. Total landscape area (square feet);
 - vi. Water supply type (e.g., potable, recycled, well) and identify the local retail water purveyor if the applicant is not served by a private well;
 - vii. Checklist of all documents in landscape documentation package;
 - viii. Project contacts to include contact information for the project applicant and property owner;
 - ix. Applicant signature and date with statement, "I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete landscape documentation package."
 - b. Water budget calculations, if applicant selects to use a water budget approach rather than comply with the turf area limitations or specified plant type restrictions (Section 18.148.080);
 - c. Soil management report or soil management survey (Section 18.148.080);
 - d. Landscape design plans (Section 18.148.090);
 - e. Irrigation system design plans (Section 18.148.100);
 - f. Landscape audit report (Section 18.148.130) (to be provided after construction); and
 - g. Grading design plan or grading design survey (Section 18.148.110).
- B. The landscape designer is encouraged to review the above noted code sections carefully in order to develop an application package that will facilitate an expedient review of the water conserving aspects of the planned landscape.
- C. Note that the Soils Management Report shall be performed and submitted prior to the issuance of the first building permit application for the project per Section **18.148.070** of the Municipal Code. The results of the report are to be used to finalize the irrigation design and soil amendment plans.
- D. Include compliance to **18.148.080** Water Budget calculations for landscaping which includes, but is not limited to:
- a. **18.148.080.A:** The plant factor used shall be from WUCOLS or from horticultural researchers with academic institutions or professional associations as approved by California.
 - b. **18.148.080.F:** MAWA (maximum applied water allowance in gallons per year) shall be calculated using the equation
 - i. "MAWA = (ET_o) (0.62) [(0.45 x LA) + (0.55 x SLA)] for non-residential areas"
 - ii. LA = Landscaping area including SLA in square feet

- iii. SLA = Special landscape area in square feet
- c. **18.148.080.H:** Estimated total water use (ETWU) will be calculated using the equation below. The sum of the ETWU calculated for all hydrozones will not exceed the MAWA.
 - i. $ETWU = (Eto)(0.62)[(PF*HA)/IE]+SLA]$
 - ii. PF = Plant factor
 - iii. HA = Hydrozone area
 - iv. IE = irrigation efficiency
 - v. SLA = Special landscape area in square feet
- E. According to Morgan Hill Municipal Code **18.148.090.B** specify the landscape design plan, at a minimum shall:
 - a. 6. Identify type of mulch and application depth;
 - b. 7. Identify soil amendments, type, and quantity;
 - c. 13. Contain the following statement: "I have complied with the criteria of the ordinance and applied them for the efficient use of water in the landscape design plan"; and
 - d. 14. **Bear the signature of a licensed landscape architect**, licensed landscape contractor, or any other person authorized to design a landscape. (See Sections 5500.1, 5615, 5641, 5641.1, 5641.2, 5641.3, 5641.4, 5641.5, 5641.6, 6701, 7027.5 of the Business and Professions Code, Section 832.27 of Title 16 of the California Code of Regulations, and Section 6721 of the Food and Agriculture Code.).
- F. Compliance with Morgan Hill Municipal Code **18.64.040.**
 - a. "All projects subject to the requirements of this chapter shall submit a landscape as part of the design permit application and subsequent building permit applications"
- G. Compliance with Morgan Hill Municipal Code **18.64.060.A.**
 - a. All plants and trees shall be categorized as low or very low water use in the Central Coast as defined by the water use classification of landscape species (WUCOLS) database.

ENGINEERING DIVISION

PROJECT SPECIFIC

- A. Water Services** - The proposed Building is separate and independent of the existing Building and will require separate water services per the following:
 - i. Separate fire line with backflow and FDC.
 - ii. Fire hydrant shall within 40 feet of the FDC.
 - iii. Provide separate domestic with backflow and public meter, which should be grouped into the same trench as item 1.

- B. **Stormwater Water Control Plan** – Project shall address the specific Stormwater comments, see attached spreadsheet - Stormwater Control Comments - Anaerobe Systems.
- C. **Fess** – Impact fees will be due prior to issuance of the Building Permit.
- D. **Right-of-way Dedication:** The existing street easements along the Concord frontage shall be re-dedicated in fee title to the city; documents shall be submitted for review with first Building Permit submittal.

I. 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 subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the City Engineer prior to submittal of Final Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**
 - i. Improvement plans are to show water lines, sanitary sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- C. **Encroachment Permits:** Obtain necessary encroachment permits from City of Morgan Hill and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**
- D. **Impact Fees & 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)**

II. 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)**

III. 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)**

IV. 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 issuance of a grading permit, the applicant shall complete the following to the satisfaction of the City Engineer.
- i. Storm drain calculations to determine detention/retention pond sizing and operations.
 - ii. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
 - iii. 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:

- i. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP or RCE)**.
- ii. SWPPP Inspections shall occur weekly during the rainy season (September 15th thru May 1st).
- iii. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
- iv. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.
- v. Per each of the inspection conditions 2, 3, or 4, SWPPP inspection reports, and when applicable, Rain Event Action Plans (REAPS) shall be e-mailed to: sw.construction@morganhill.ca.gov no later than 12:00 PM each Monday for the previous week's inspections with a brief statement whether the site is in compliance or non-compliant.
- vi. Prior to rain events, BMPs not in compliance will need to be corrected immediately.
- vii. Illicit discharges per the NPDES General Permit, non-compliance of tracking control, and inlet protection within the public right-of-way shall be addressed immediately.
- viii. Other non-compliance issues need to be addressed within a 24-hour period.
- ix. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow-up inspection.
- x. BMP maintenance/inspections shall include tree protection, if applicable.

V. 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 Line Extension:** Install water line extension on the proposed public streets and/or private streets. **(MHMC 17.32.020 A & D; CMH Water System Master Plan)**

VI. OTHER CONDITIONS

- A. **Pre-construction Meeting:** If necessary, 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:
- i. Civil Engineer of record
 - ii. Geotechnical Engineer of record
 - iii. Third Party QSD/QSP SWPPP Inspector
 - iv. General Contractor
 - v. Sub-Contractors
- B. **As-Built Submittal Standards:** The developer shall submit digital as-builts of the project's Final Map, Grading Plan, and Improvement Plans which adhere to the City's updated GIS/CAD Developer Submittal Standards.

VII. NPDES 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). A copy of the Guidance Manual can be obtained from the City's Land Development Engineering webpage. Project shall provide Stormwater Runoff Management Plan, Stormwater Control Plan and Checklist, and applicable calculations per the Guidance Manual. Project shall meet the applicable Post-Construction Requirements:
1. Performance Requirement 1: Site Design and Runoff Reduction
 2. Performance Requirement 2: Water Quality Treatment
 3. Performance Requirement 3: Runoff Retention
 4. Performance Requirement 4: Peak Management
- B. **Peak Storm Water Runoff Discharge Rates:** Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows.
- C. **Storm Drain System Stenciling and Signage:** All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: "NO DUMPING – DRAINS TO CREEK") and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal

dumping, must be posted at public access points along channels and creeks within the project area. Legibility of stencils and signs must be maintained.

- D. Outdoor Material Storage Areas:** The following Structural or Treatment BMPs are required for outdoor material storage areas:
- i. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as, but not limited to, a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes, or curbs.
 - ii. The storage area must be paved and sufficiently impervious to contain leaks and spills.
 - iii. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.
- E. Trash Enclosure Areas:** In addition to the requirements under Municipal Code Section 18.92.155 (Refuse and Recycling Enclosures), all trash enclosure areas must meet the following Structural or Treatment Control BMP requirements:
- i. Roof Required: Trash enclosure areas shall have an all-weather noncombustible solid roof to prevent rainwater from mixing with the enclosure's contents
 - ii. Walls Required: Trash enclosure shall have structural walls to prevent unauthorized off-site transport of trash.
 - iii. Doors: Trash enclosure shall have door(s) which can be secured when closed.
 - iv. Grades: The pad for the enclosure shall be designed to not drain outward, and the grade surrounding the enclosure shall be designed to not drain into the enclosure.
 - v. Drain Inlet: Within the enclosure, an area drain with an approved (Zurn) vandal proof drain shall be installed and shall be plumbed to the sanitary sewer system with grease trap. Grease trap shall be located within the trash enclosure footprint.
- 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:
- i. Volumetric Treatment Control BMP
 1. 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
 2. 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
 3. 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.
 - ii. Flow Based Treatment Control BMP
 1. 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

2. 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): 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.

- i. 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.
- ii. The developer shall provide a signed certification from the civil engineer responsible for preparing the Stormwater Runoff Management Plan that all stormwater best management practices have been designed to meet the requirements of this chapter.

H. Stormwater BMP Operation, Maintenance, and Replacement Responsibility

- i. Prior to building final, the property owner shall submit a signed certification (with signature, date & license number/seal) certifying that all post-construction stormwater management/BMP facilities shown on the as-built drawings were inspected by the civil engineer (or by a qualified third party stormwater inspector hired by the permittee/owner) and have been constructed in accordance with the approved plans and specifications.
- ii. 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.
- iii. Any repairs or restoration/replacement and maintenance shall be in accordance with City-approved plans.
- iv. 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):

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

J. Stormwater BMP Inspection Responsibility

1. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a **certified Qualified Stormwater Practitioner (QSP)**.
 2. Unless otherwise required by the City Engineer or designee, stormwater facility inspections shall be done at least twice per year (April 15th and September 15th) by the QSP. Written records shall be kept of all inspections and shall include, at minimum, the following information:
 - a. Site address;
 - b. Date and time of inspection;
 - c. Name of the person conducting the inspection;
 - d. List of stormwater facilities inspected;
 - e. Condition of each stormwater facility inspected;
 - f. Description of any needed maintenance or repairs; and
 - g. As applicable, the need for site re-inspection.
 3. Upon completion of each inspection, an inspection report shall be submitted to Land Development Engineering.
- K. **Records of Maintenance and Inspection Activities:** On or before April 15th and September 15th of each year, the party responsible for the operation and maintenance of on-site stormwater management facilities under the BMP Operation and Maintenance Agreement shall provide the City 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 project's stormwater quality design standards are properly maintained and functioning as required by the SWRMP.






Approval Certificate 22-09.jc signed

Final Audit Report

2022-05-18

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