



COMMUNITY DEVELOPMENT AGENCY, PLANNING DIVISION

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MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Date: July 7, 2015 **Application #s:** SD-14-08, DA-14-06, ZA-14-17, and EA-14-17

APNs: 728-36-013 and 728-36-014

Project Title: Cochrane Standard Pacific Project

Project Location: The 40-acre Cochrane Standard Pacific site (APNs 728-36-013 and 728-36-014) is located at 1365 Cochrane Road and 1465 Cochrane Road in Morgan Hill, California. The site is bordered by approximately 20 acres of vacant land and a single-family residence to the east (Future Lands of Cochrane Road residential development, APN 728-36-012), mostly undeveloped land with an unoccupied tent currently used for sports and recreation and a parking lot (which would be a part of the future second phase of the Target Shopping Center project) to the west, Cochrane Road, an outdoor open space area and single-family residences to the south, and several greenhouses, residential and agricultural uses to the north.

Project Proponent

Standard Pacific Homes, Bay Area
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Project Description: The project applicant requests zoning amendments for the approval of two Planned Development zones. The project proposes to subdivide two parcels (APN 728-36-013 and -014) into 135 residential lots and seven open space/non-building lots, allowing for the development of 135 one- and two-story single-family houses with two- to three-car garages and private driveways. The residential lot sizes would range from approximately 3,550 to 13,600 square feet and the open space lots would range from 0.06 to 2.8 acres. The open space non-building lots include a 2.8-acre common open space area (which includes a biotreatment and infiltration area and a hydromodification basin), and six smaller (0.06 to 1.2 acres) common open space areas.

The project site would be accessed via Cochrane Road and an extension of Mission View Drive. A portion of the planned Mission View Drive extension would be constructed as part of the proposed project. The

project improvements would include the construction of half street improvements of Mission View Drive along the project site's frontage, from the Mission View Drive and Cochrane intersection to the project site's northern boundary. A traffic signal would be installed at the Mission View Drive and Cochrane Road intersection as a part of the Mission View Drive extension project improvements.

II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures will be included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

III. MITIGATION MEASURES AND STANDARD CONDITIONS OF APPROVAL:

A. Air Quality

Standard Condition (SC AIR-1): Site Development, F. Management Plan - A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the adjacent properties (per the City's Municipal Code 18.48.005). The plan must include the following "Basic Construction Mitigation Measures" per BAAQMD and the City of Morgan Hill's Standard Conditions:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- 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.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- 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.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- 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.

- 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.

B. Biological Resources

Impact BIO-1: Construction of the proposed project could result in the loss of raptor and/or migratory bird eggs or nestlings, either directly by destroying an active nest or indirectly by disturbing and causing the abandonment of an active nest.

MM BIO-1.1: If tree removal or ground disturbance activities are scheduled to commence during the breeding season (February 1st through August 31st), a pre-construction survey would be completed by a qualified biologist for tree nesting raptors and other migratory birds within the onsite trees as well as trees within 250 feet of the project site. The pre-construction surveys shall occur within 30 days of the on-set of construction.

Pre-construction surveys during the nonbreeding season are not necessary for tree-nesting raptors and migratory birds, as they are expected to abandon their roosts during this period. The survey results shall be provided to the City's Community Development Director prior to issuance of demolition and grading permits.

MM BIO-1.2: If nesting raptors or other migratory birds are detected on or adjacent to the project site during the pre-construction surveys, a suitable construction-free buffer (based on the City's approval) shall be established around all active nests. The precise dimension of the buffer (up to 250 feet) shall be determined at that time (by a qualified biologist) and may vary depending on location 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.

Impact BIO-2: Development of the project site could result in the loss of burrowing owl eggs or nestlings, either directly by destroying an active nest or indirectly by disturbing and causing the abandonment of an active nest.

MM BIO-2.1: In accordance with the City's Burrowing Owl Mitigation Plan, a burrowing owl pre-construction survey would be completed by a qualified owl biologist within 30 days of ground disturbance/construction at the project site. The pre-construction survey would include the following four-phase protocol:

- **Habitat Assessment (Phase I):** A qualified burrowing owl biologist would complete a habitat assessment which would include a field survey for burrowing owl habitat at the project site, and the project area within 330 feet

of the site, to determine if burrowing owl habitat is present. If it is determined that the project site has suitable burrowing owl habitat, then a qualified burrowing owl biologist would complete a burrow survey (Phase II below). If the project site does not have suitable burrowing owl habitat, then no further field surveys would be required and a written report of survey of findings (Phase IV below) would be completed and submitted to the City's Community Development Director.

- **Burrow Survey (Phase II):** If suitable burrowing owl habitat is present on the project site, a qualified burrowing owl biologist would complete a burrow survey to determine if owl burrows are present on the project site. If burrows are present on the project site, then a qualified burrowing owl biologist would complete burrowing owl surveys (Phase III below). If there are no burrows present on the project site then no further field surveys would be required and a written report of survey findings (see Phase IV below, which would include a map of burrow areas) would be completed and submitted to the City's Community Development Director.
- **Burrowing Owl Surveys (Phase III):** If burrows are present on the project site, a qualified biologist would complete a burrowing owl survey. This survey can be completed concurrently with the habitat assessment (Phase I) and burrow survey (Phase II). If burrowing owls are present then a written report with survey findings (see Phase IV below, which would include a map of burrow areas) would be prepared and submitted to the City's Community Development Director.

If burrowing owls are not present, then a qualified burrowing owl biologist would complete four additional surveys separate dates and a written report of survey findings (see Phase IV below), which would be submitted to the City's Community Development Director.

The surveys would be completed two hours before to one hour after sunset or one hour before to two hours after sunrise. If owls are sighted, the surveys would include a map of owl sightings, occupied burrows, territorial boundaries, and a record of all breeding behavior.

- **Preconstruction Survey Written Report (Phase IV):** A written report of survey findings would be required for all phases of burrowing pre-construction construction survey (Phases I, II and III above) and would be submitted to the City's Community Development Director. The written report would be required to include the following if applicable: the number of owls, nesting pairs, seasonal pattern of use, map of site with occupied with occupied burrows.

MM BIO-2.2: If burrowing owls are identified on the project site, development would comply with the measures detailed under Chapter 6, Condition 15 of the Habitat Plan

(see **MM BIO 2.3** and **MM BIO 2.4** below) to reduce potential impacts to burrowing owls to a less than significant level.

- MM BIO-2.3:** In accordance with the Habitat Plan, Chapter 6, Condition 15, should a burrowing owl be located on the site in the non-breeding season (September through January), construction activities shall not be allowed within a 250-foot buffer unless the following avoidance measures are adhered to:
- A qualified biologist monitors the owls for at least three (3) days prior to construction to determine baseline foraging behavior (i.e., behavior without construction).
 - The same qualified biologist monitors the owls during construction and finds no change in owl foraging behavior in response to construction activities.
 - If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities shall cease within the 250-foot buffer.
 - If the owls are gone for at least one week, the project proponent may request approval from the Santa Clara Valley Habitat Agency that a qualified biologist excavate usable burrows to prevent owls from re-occupying the project site. After all usable burrows are excavated, the buffer zone will be removed and construction may continue.
 - The biological monitor shall also conduct training of construction personnel on the avoidance procedures, buffer zones, and protocols in the event that a burrowing owl flies into an active construction zone (HCP/NCCP, Chapter 6, Condition No. 15).

- MM BIO-2.4:** In accordance with the Habitat Plan, Chapter 6, Condition 15, should a burrowing owl be located onsite in the breeding season (February through August), construction may occur inside of the 250-foot non-disturbance buffer during the breeding season if:
- The nest is not disturbed, and the project proponent develops an avoidance, minimization, and monitoring plan that will be reviewed by the Santa Clara Valley Habitat Agency and the Wildlife Agencies prior to project construction based on the following criteria:
 - The Santa Clara Valley Habitat Agency and the California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife (USFW) approve of the avoidance and minimization plan provided by the project applicant;
 - A qualified biologist monitors the owls for at least three days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction);
 - The same qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities; and

- If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities shall cease within the 250- foot buffer.
- If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-disturbance buffer zone may be removed. The biologist shall excavate the burrow to prevent reoccupation after receiving approval from the CDFW and USFW.

MM BIO-2.5: In accordance with the Burrowing Owl Mitigation Plan, the applicant shall submit a payment of burrowing owl mitigation fees to the City of Morgan Hill prior to receiving a site development and/or grading permit. These fees are applicable to the project (whether or not burrowing owls or evidence of burrowing owls are discovered in the project area during the pre-construction surveys).

C. Cultural Resources

Standard Condition (SC CUL-1) –Archaeologically Sensitive Site (2): In the unlikely event cultural materials are found during site grading or excavation, the following Standard Conditions would be implemented, in accordance with Section 18.75.110 of the Morgan Hill Municipal Code:

- 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.
 - Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
 - Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.
- 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, groundstone 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 discovery locale.
- 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 (typically 25-50ft for single burial or archaeological find).

- 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.
- 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 Community Development 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 or (916) 743-5833
- 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.
- The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) from the Amah Mutsun Tribal Band. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
- Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.
- Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Community Development 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 Amah Mutsun Tribal Band may be considered and carried out.
- 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.

D. Geology and Soils

Standard Condition Storm Drain System (D): Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the Director of Public Works.

1. Storm drain calculations to determine detention 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.

Standard Condition Storm Drain System (F): As required by the State Water Resources Control Board (SWRCB) Order No. 99-08-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) package and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with Section A, B, and C of the General Permit prior to the commencement of soil disturbing activities. A NOI Receipt Letter assigning a Waste Discharger Identification (WDID) number to the construction site will be issued after the SWRCB receives a complete NOI package (original signed NOI application, vicinity map, and permit fee); copies of the NOI Receipt Letter and SWPPP shall be forwarded to the Building and Public Works Department review. SWPPP shall be made a part of the improvement plans. (SWRCB NPDES General Permit CA000002)

E. Noise

Impact NOI-1: The project would be exposed to exterior noise levels greater than 60 dBA L_{dn} , which exceeds the exterior noise and land use compatibility standards of the General Plan.

MM NOI-1.1: Prior to occupancy of the residential units, six-foot high noise barriers shall be constructed along the southern property line (adjacent to Cochrane Road) of the project site to reduce projected 2033 Cochrane Road traffic noise levels to less than 60 dBA L_{dn} . Noise barriers shall shield the private outdoor use areas of the residences adjacent to Cochrane Road and the barrier heights shall be measured relative to the residential pad elevation. The barriers shall be free of cracks or gaps over the face and at the base of the barrier and shall be constructed from materials with a minimum surface weight of three pounds per square foot. The noise barriers at the project site shall be air-tight connected during construction. The City's Building Division shall review all plans and specifications for the walls prior to the issuance of the building permit.

Impact NOI-2: Interior noise levels could exceed 45 dBA L_{dn} on the site without the incorporation of a force air-mechanical ventilation system and standard construction techniques for the proposed residences.

MM NOI – 2.1: A final detailed acoustical analysis, in conformance with California Noise Insulation Standards in Title 24, Part 2 of the California Code of regulations (California Building Code), shall be required for approval for final design of the proposed residences prior to issuance of a building permit.

The project shall incorporate sound control treatments, such as full-time/forced-air mechanical ventilation systems, standard dual-pane thermal insulated windows, and building facade treatments to meet an interior L_{dn} of 45 dBA (or 50 dBA as applicable) and an L_{max} of 50 dBA or lower in bedrooms and 55 dBA or lower in all other habitable rooms with the windows closed (at the occupant's discretion) to the satisfaction of the City Building Official.

Impact NOI-3: Noise generated by site improvements, grading, infrastructure improvements, and the construction of single-family residences could result in noise levels exceeding 60 dBA L_{eq} and the ambient noise environment by five dBA L_{eq} for a period greater than one year.

MM NOI – 3.1: Under the Morgan Hill Municipal Code, allowed hours of construction are limited to avoid substantial impacts to sensitive receptors, such as nearby residents. Construction activities shall be limited to the hours between 7:00 AM to 8:00 PM on weekdays and 9:00 AM to 6:00 PM on Saturdays. There shall be no construction activities on Sundays or Federal holidays (Municipal Code Chapter 8.28.040).

MM NOI – 3.2: Implement construction noise control measures to limit noise disturbance to the extent feasible. Measures may include, but would not be limited to the following:

- Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Locate stationary noise generating equipment (e.g. rock crushers, compressors) as far as possible from adjacent residential receptors.
- Acoustically shield stationary equipment located near residential receptors with temporary noise barriers or recycled demolition materials.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem.

III. FINDING

The City of Morgan Hill hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures and standard conditions of approval summarized above and described in the initial study would reduce the impacts to a less than significant level.