

Edmundson-Oak Meadow Project

USA-05-02, ZA-11-13, ANX-06-01

Mitigated Negative Declaration

Addendum

July 2015

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1.0 Preface and Summary

A Mitigated Negative Declaration was circulated by the City of Morgan Hill in August 2014, to analyze the impacts of a proposed project that includes 50.73 acres. The project proposes to expand the Urban Services Area boundary, pre-zone and annex into the City approximately 20 acres to allow the future development of 54 single-family dwellings; pre-zone, annex into the City and amend the General Plan land use designation for approximately 31 acres as Open Space; and amend Action statement 7.5 of the General Plan. Open space easements are proposed on lands with slopes of 10 percent and greater. Access to the future development would be from existing City streets.

The Mitigated Negative Declaration (MND) was made available to the public for a 30-day review period. The Planning Commission conducted public hearings on September 9, 2014, October 14, 2014, November 18, 2014 and January 13, 2015 and recommended approval of the project to the City Council, where approval was granted for only the General Plan Amendment portion on February 4, 2015.

Changes since Adoption of Mitigated Negative Declaration

Since the City Council's approval, the project proponent has made changes to the scope of the project. The key change to the project includes the addition of a Memorandum of Understanding (MOU 2015).

During the 2014 effort by the applicant to complete the project requests, there was a lot of public dialogue regarding the scope of the project, the design of the project and how the project would be implemented. In an effort to allay those concerns, the applicant drafted a Memorandum of Understanding (MOU 2015) for the project. The MOU 2015 provides a summary of commitments and benefits that the project would provide. In addition, it sets up the framework to establish a binding agreement (typically a Development Agreement), which in the case of this project would be necessary to approve the USA with beneficial criteria.

Purpose of Memorandum of Understanding

Specifically, the purpose of the Memorandum of Understanding is to:

- Collectively look at Areas 1, 2 & 3 (50.73 acres) and include parcels not requiring USA adjustment, Pre-Zoning or Annexation totaling approximately 66.74 acres (within the unincorporated County area).
- Establish procedures and mechanisms for the reconfigurations and title transfers of the developer's parcels for the purpose of open space preservation, annexation and development.
- Provide assurances to the City and the applicant (and any successor of the property) of what can be developed at the site
- Provide assurances and expectations of benefit that Morgan Hill would receive as a result of the development
- Establish the timelines to deliver the benefits

Memorandum of Understanding Commitments

In summary, the Memorandum of Understanding states that the developer will:

- Pursue development of between 40-48 single-family residential units on Lot 1;
- Limit the number of housing units on other properties and locate them so as to minimize their visibility from public rights of way;
- Establish open space easements over portions of certain parcels;
- Convey in fee title a certain part of one of Oak Meadow's parcels on DeWitt to the City in exchange for the City's conveyance of a like amount of City property to Oak Meadow to facilitate access;
- With respect to Area 1 have no gates at roadways;
- Provide trail easements, including an easement along Edmundson Avenue toward Community Park;
- Incorporate trail heads into development;
- Provide clustering, open space, and the establishment of view sheds for Area 1;
- Develop design guidelines for development;
- Dedicate right of way for the straightening of DeWitt Avenue per County Roads and Airports realignment project; and
- Relocate a major 10" water main currently without physical access for maintenance, to an accessible location under a paved street

California Environmental Quality Act (CEQA)

California Code of Regulations Title 14 (hereinafter, "State CEQA Guidelines"), sections 15162 through 15164 discuss a lead agency's responsibilities in handling new information that was not included in a project's Final Environmental Impact Report (EIR) or Negative Declaration.

Section 15162 of the State CEQA Guidelines provides:

- (a) When an EIR has been certified or Negative Declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or Negative Declaration was adopted shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15164 of the State CEQA Guidelines provides:

Where some changes or additions are necessary to the previously approved Negative Declaration, but none of the changes or additions meet the standards as provided for a subsequent Negative Declaration pursuant to State CEQA Guidelines, Section 15162, then the lead agency is directed to prepare an Addendum to the adopted Negative Declaration (State CEQA Guidelines, Section 15164). Further, the Addendum should include a “brief explanation of the decision not to prepare a subsequent Negative Declaration pursuant to Section 15162,” and that “explanation must be supported by substantial evidence” (State CEQA Guidelines, Section 15164 [e]). The addendum need not be circulated for public review, but may simply be attached to the adopted Negative Declaration (State CEQA Guidelines, Section 15164 [c]).

Addendum Finding

On the basis of substantial evidence in the light of the whole record, the proposed revisions to the original project do not meet the criteria in Section 15162 requiring a Subsequent Negative Declaration. The proposed changes do not increase any severity towards environmental issues discussed in the previous Mitigated Negative Declaration. The proposed project does not require any additional mitigation measures. The previously identified mitigation measures remain valid and adequate to reduce potential impacts to less than significant levels. Therefore, an addendum to the previously adopted Mitigated Negative Declaration is warranted.

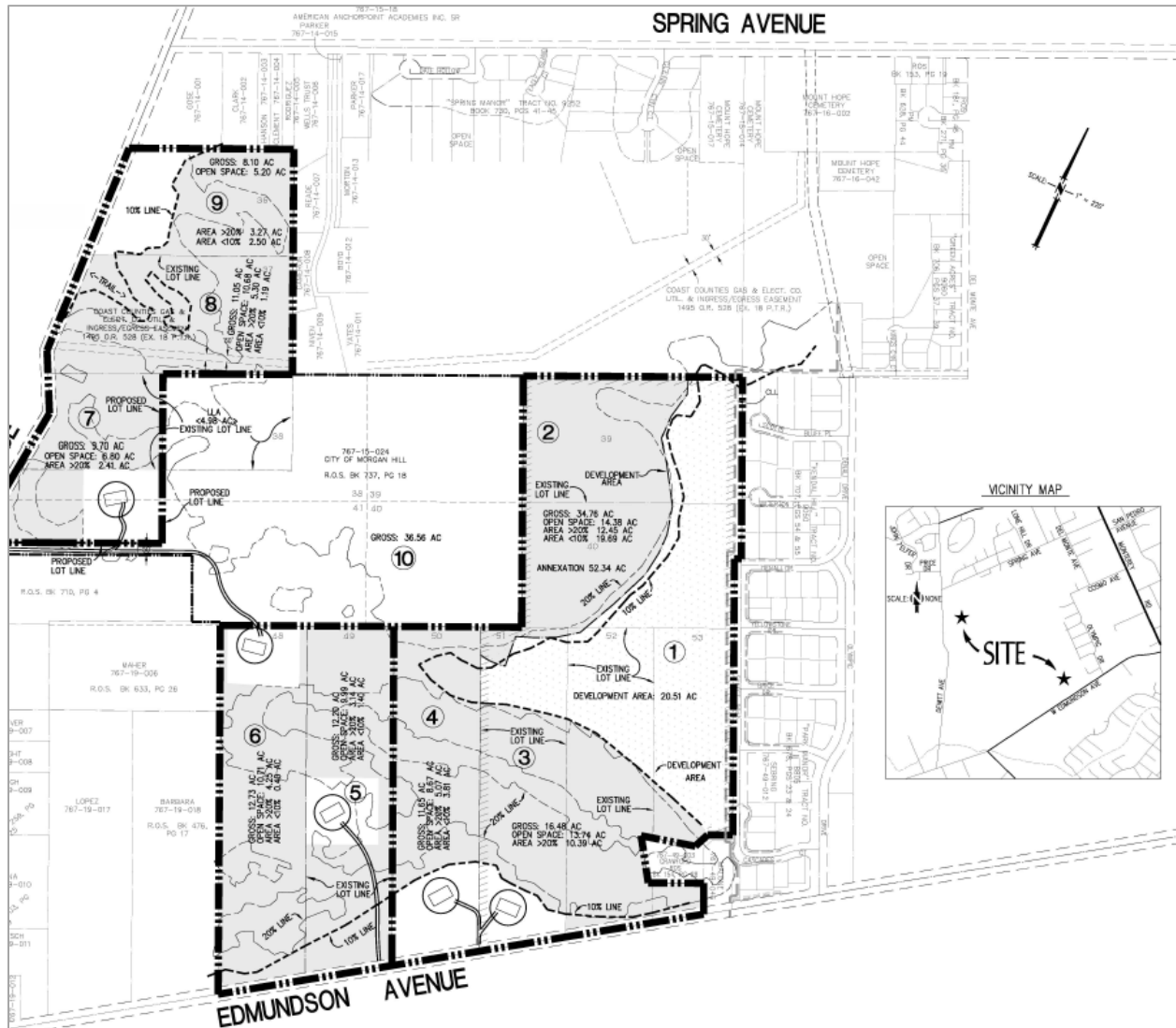
2.0 Site Location and Land Uses

The project site (Areas 1, 2, & 3 on Location Map) is located outside of the of City's boundaries, however, Area 1 is located within the City's Urban Growth Boundary and Urban Limit Line. The vacant project site is relatively level on its eastern side, then its slope increases beyond 10 percent towards its western end.

In addition, the Memorandum of Understanding considers property (Areas 4 through 9 on Location Map) outside of the City's boundaries that are not being considered for annexation, however, they are a part of the implementation of the project. The approximately 66.74 acres would remain within the County of Santa Clara. The Memorandum of Understanding proposes to designate certain areas that would be building envelopes for limited single family development in accordance with County of Santa Clara Zoning requirements.

East of the project site is a single-family development within Morgan Hill (3.8 dwelling units/acre). Other surrounding areas are unincorporated with rural development intensity within the jurisdiction of the County of Santa Clara.

Location Map



3.0 Project Description

Prior Actions/Entitlements

The project has been the subject of several past actions. Most recently, on February 4, 2015, the City Council approved the General Plan Amendment for Areas 2 and 3 for the current Open Space designation.

Current Request

The applicant requests to expand the Urban Services Area Boundary for approximately 20 acres, pre-zone and annex 50.85 acres; and approve a Memorandum of Understanding, which would outline the various beneficial commitments by the applicant. These requests support the development of between 40-48 single-family dwelling units on approximately 20 acres.

The only difference between the project description from the adopted Mitigated Negative Declaration and the Addendum is the addition of a Memorandum of Understanding.

Purpose of Memorandum of Understanding

Specifically, the purpose of the Memorandum of Understanding is to:

- Collectively look at Areas 1, 2 & 3 (50.73 acres) and include parcels not requiring USA adjustment, Pre-Zoning or Annexation totaling approximately 66.74 acres (within the unincorporated County area).
- Establish procedures and mechanisms for the reconfigurations and title transfers of the developer's parcels for the purpose of open space preservation, annexation and development.
- Provide assurances to the City and the applicant (and any successor of the property) of what can be developed at the site
- Provide assurances and expectations of benefit that Morgan Hill would receive as a result of the development
- Establish the timelines to deliver the benefits

Memorandum of Understanding Commitments

In summary, the Memorandum of Understanding states that the developer will:

- Pursue development of between 40-48 single-family residential units on Lot 1;
- Limit the number of housing units on other properties and locate them so as to minimize their visibility from public rights of way;
- Establish open space easements over portions of certain parcels;
- Convey in fee title a certain part of one of Oak Meadow's parcels on DeWitt to the City in exchange for the City's conveyance of a like amount of City property to Oak Meadow to facilitate access;
- With respect to Area 1 have no gates at roadways;
- Provide trail easements, including an easement along Edmundson Avenue toward Community Park;

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- Incorporate trail heads into development;
- Provide clustering, open space, and the establishment of view sheds for Area 1;
- Develop design guidelines for development;
- Dedicate right of way for the straightening of DeWitt Avenue per County Roads and Airports realignment project; and
- Relocate a major 10" water main currently without physical access for maintenance, to an accessible location under a paved street

4.0 Environmental Setting and Impacts

The Mitigated Negative Declaration prepared for the original project did identify ten mitigation measures (Air Quality [1], Biological Resources [5], Cultural Resources [2], Noise [1] and Transportation [1]) to be implemented along with standard conditions of approval to reduce identified potential significant impacts related to any of the discussed topics to a level of less than significant.

The purpose of this section of the amendment to the Mitigated Negative Declaration is to determine whether the revised project would result in any potentially significant impacts that were not identified for the original project.

A. Aesthetics

The revised project is not expected to result in any new or increased aesthetic impacts. The Memorandum of Understanding specifies the location of the homes within the County of Santa Clara outside of the area that is proposed for annexation into the City.

Areas 4-9 would remain outside of the City's limits after implementation of the project. The existing County zoning for Areas 3-6 is HS-d1, which may require Design Review depending on the size of the structure. The existing County zoning for Areas 7-9 is HS, where single-family homes are permitted by right.

Given that the home locations are specified by the MOU 2015; and the home locations would be reviewed under the County's jurisdiction; it is not anticipated that there would be any significant impacts to aesthetics.

B. Agricultural Resources

The environmental setting does not change and the revised project does not change the previous findings.

C. Air Quality

The adopted MND includes a mitigation measure that includes Best Management Practices for all construction for the project and the control measures would be implemented during the duration of all proposed construction activities.

The MOU 2015 limits residential development on Area 1 to between 40 and 48 dwelling units, which is less than the 54 dwelling units analyzed in the adopted MND. The MOU 2015 sets the location of potential homes on Areas 3-7 (five homes total), describes the realignment of De Witt Avenue, and the construction of a 10" water main for Area 1. It is not expected that construction will occur simultaneously for these projects except for the 40-48 units, and water

main relocation on-site, which are typical activities associated with detached single-family development projects in urban areas.

The revised project is not expected to result in any new or increased air quality impacts. The air quality analysis contained in the Mitigated Negative Declaration for the original project concluded that the project's vehicle trip generation rate was not high enough to create a significant air emissions impact. Therefore, the revised project will not result in a significant air emissions impact.

D. Biological Resources

The revised project is not expected to result in any additional biological resources impacts. The Biological Study for the adopted MND included the revised project area. The revisions would not substantially affect the existing biological resources beyond what was identified in the Mitigated Negative Declaration. The adopted MND mitigation measures remain applicable and adequate to implement.

E. Cultural Resources

The environmental setting has not changed and the revised project is not expected to result in any cultural resources impacts beyond what was previously discussed. The existing mitigation measures would ensure that any potential impacts are reduced to a level of less than significant.

F. Geology and Soils

The environmental setting remains the same. For development within the jurisdiction of the County, review by the County would be required to ensure compliance with Building Codes.

G. Greenhouse Gases

The environmental setting remains the same. For components of the project within the jurisdiction of the County, compliance with sustainability requirements would be required.

H. Hazards and Hazardous Materials

The environmental setting has not changed and the revised project is not expected to result in any hazards and hazardous materials impacts beyond what was previously discussed. The project would remain consistent with emergency response plans in effect.

I. Hydrology and Water Quality

The environmental setting has not changed and the revised project is not expected to result in any hydrology and water quality impacts beyond what was previously discussed. The County of Santa Clara coordinates with the City of Morgan Hill on implementation of the National Pollution Discharge Elimination System permit. Specific development within the County will adhere to County regulations.

J. Land Use and Planning

The revised project is not expected to result in any new or increased land use or planning impacts.

The approved MND analyzed 60 single-family dwelling units. The revised project proposes a maximum of 53 single-family dwelling units, which includes up to 48 single-family homes on Area A and up to one single-family dwelling unit on the remaining areas identified on Exhibit A.

The project area remains within the Santa Clara Valley Habitat Plan. The revised project does not conflict with any existing applicable County General Plan or Morgan Hill General Plan or County Zoning or Morgan Hill Zoning. The adopted mitigation measure remains valid.

K. Mineral Resources

The environmental setting has not changed and the revised project is not expected to result in any mineral resources impacts beyond the “no impact” finding previously made.

L. Noise

The revised project is not expected to result in any noise impacts beyond what was previously discussed.

County of Santa Clara General Plan Health and Safety Chapter

The Public Health and Safety chapter of the County General Plan establishes a land use compatibility standard of 55 dB Ldn. This noise level limit is considered “satisfactory” for residential and other noise-sensitive uses, and is generally measured at outdoor activity areas. An interior noise exposure limit of 45 dB Ldn is recommended for residential receivers (assuming doors and windows closed).

County of Santa Clara Ordinance Code

County Municipal Code §B11-152 establishes noise exposure criteria for non-transportation noise sources (i.e., stationary sources) at noise-sensitive uses. These standards are generally established for conflict resolution in established parts of the County and are appropriate for the determination of Project noise impacts. The criteria are summarized in Table B11-152 of the County Municipal Code.

Each of the noise exposure limits listed in Table B11-152 is lowered by 5 dB when addressing impulsive or tonal sources, or sources consisting primarily of speech or music. Also, if the ambient noise exposure exceeds the applicable L50-L2 criteria, then the criteria is increased in 5 dB increments to encompass the ambient noise exposure. If the Lmax exceeds the listed criteria, then the measured noise exposure is used as the applicable noise exposure limit.

The Noise criteria is similar to that of the City of Morgan Hill and therefore, it is not anticipated that any new significant impacts would occur as a result of the project.

M. Population and Housing

The environmental setting has not changed and the revised project is not expected to result in any population and housing impacts beyond what was previously discussed.

N. Public Services

The environmental setting has not changed and the revised project is not expected to result in any public services impacts beyond what was previously discussed.

O. Recreation

The environmental setting has not changed and the revised project is not expected to result in any Recreation impacts beyond what was previously discussed.

P. Transportation and Traffic

The adopted MND relied upon a Transportation Impact Analysis (TIA) prepared in 2012. At that time, the project included the revised project area and included a proposal of 60 single-family dwelling units for Area A. The revised project is not expected to result in any transportation and traffic impacts beyond what was previously discussed.

Q. Utilities and Service Systems

The environmental setting has not changed and the revised project is not expected to result in any utilities and service systems impacts beyond what was previously discussed.

R. Mandatory Findings of Significance

The adopted Mitigated Negative Declaration included mitigation measures to reduce potentially significant impacts to a level of less than significant. The revised project is not expected to create new significant impacts.