

## **RESOLUTION NO. 15-51**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A TENTATIVE MAP FOR A 58-LOT RESIDENTIAL SUBDIVISION ON A 4.37-ACRE SITE LOCATED ON THE EAST SIDE OF MONTEREY STREET, NORTH OF WRIGHT AVENUE AND SOUTH OF OLD MONTEREY ROAD, IN AN R3 (PD) ZONING DISTRICT (APN 726-25-004)**

**WHEREAS**, such request was considered by the Planning Commission at its regular meeting of August, 11, 2015 at which time the Planning Commission approved subdivision application, SD-14-10: Monterey – KB Gippetti – KB Home South Bay, Inc.; and

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

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

**SECTION 1.** The approved project is consistent with the Zoning Ordinance and the General Plan.

**SECTION 2.** The approval of this subdivision is contingent upon the City Council approval of a Zoning Amendment from CL-R to R3 Planned Development (PD) and establishment of a precise development plan as contained in Zoning Amendment application, ZA-14-20: Monterey – KB Gippetti – KB Home South Bay, Inc.

**SECTION 3.** The Planning Commission of the City of Morgan Hill hereby finds that the project site was initially reviewed as part of the Fall 2014 General Plan Amendments. At that time, the City Council adopted a Mitigated Negative Declaration for which an Initial Study was prepared in accordance with the California Environmental Quality Act. An Addendum to the previously adopted Mitigated Negative Declaration has been prepared to provide project-level CEQA analysis for the development of the site and to account for project-specific detail that was not previously available. The Planning Commission on the basis of the whole record before it (including the Fall 2014 adopted initial study, addendum and any comments received) and that there is no substantial evidence that the project will have a significant effect on the environment. The custodian of the documents or other material which constitute the record shall be the Community Development Department. The mitigation measures are identified in the set of standard conditions as contained in Exhibit A.

**SECTION 4.** The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

**SECTION 5.** The approved project shall be subject to the conditions as identified in the set of

standard conditions attached hereto, as Exhibit A, and by this reference incorporated herein.

**PASSED AND ADOPTED THIS 11<sup>th</sup> DAY OF AUGUST, 2015, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

**AYES: COMMISSIONERS:**

**NOES: COMMISSIONERS:**

**ABSTAIN: COMMISSIONERS:**

**ABSENT: COMMISSIONERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**TERESA CRUE, Deputy City Clerk**

\_\_\_\_\_  
**JOE MUELLER, Chair**

**A F F I D A V I T**

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

By: \_\_\_\_\_

Date: \_\_\_\_\_

Print name and title of authorized signer/s: \_\_\_\_\_

**EXHIBIT A**

**CONDITIONS OF APPROVAL**

**PLANNING DIVISION**

1. The Tentative Subdivision Map approval granted under this Resolution shall remain in effect for two years to August 11, 2017. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Planning Commission prior to the expiration date. (MHMC 17.20.170; 17.24.110)
2. The Tentative Map approval granted under this Resolution is for the tentative map documents date stamped August 5, 2015, on file at the Community Development Department, entitled "Gippetti/Monterey Parque". These documents, as amended by Design Review approval, show the location and sizes of all lots in this development, the location and dimensions of all vehicle and pedestrian circulation ways, landscape areas and other easement areas.
3. The applicant shall provide a set of Covenants, Conditions and Restrictions, Bylaws and Articles of Incorporation, for review and approval by the Community Development Department prior to final occupancy or recordation of the final map. All such CC&Rs shall include the following text:

A. Common Areas/Right of Ways:

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

\*Public right-of-way: Exclusive of streets dedicated

to and accepted by the City of Morgan Hill

The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within thirty (30) days of the mailing or delivery of such notice, the City shall have standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.

The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association.

The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.

This section may not be amended without the prior written consent of the Director of Community Development for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.

For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance obligation or duty of maintenance is increased by such amendment.

- B. Tree and Landscape Preservation: The Owners of the Units and Association shall preserve and maintain all trees and landscape on the property originally required by the approved landscape plan and shall not remove or alter any such trees or landscape from the Property without the approval of the Director of Community Development of the City of Morgan Hill.
  - C. Compliance with the City of Morgan Hill Conditions of Approval: It shall be the responsibility of each Owner and the Association to insure 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 if set forth in full.
4. Final site development plans shall be reviewed and approved by the Community Development Agency prior to issuance of a building permit. All such plans shall include:
- A. Detail depicting all concrete curbs as full formed. (MHMC 18.50.270)
  - B. 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. (MHMC 18.74.370)
  - C. Ramps, special parking spaces, signing and other physical features for the disabled shall be provided throughout the site for all publicly used facilities. (MHMC 18.50.110; 18.74.470)
  - D. 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. (MHMC 18.74.320) For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.
  - E. Any and 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.
5. Recordation of a final map shall be in accordance with the number of building allotments granted through the Residential Development Control System (RDCS) for this project. Should a portion of the project's building allotment expire prior to final map approval,

the number of lots on the final map shall be reduced to correspond to the remaining allotment. (MHMC 18.78.020)

6. A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. (MHMC 18.48.005)
7. Street names, private or otherwise, used to identify building locations shall be submitted to the Planning Division for approval. Proposed street names shall comply with the Street Naming Policy approved by City Council. (Res No. 4601)
8. Prior to final map approval or issuance of a building permit, the owner shall record an appropriate deed restriction and covenant running with the land subject to review and approval for reciprocal ingress/egress easements along the common driveways.
9. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this subdivision application. In addition, applicant shall pay 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, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they 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.
10. Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun. This right to protest does not apply to voluntary Residential Development Control System fees.
11. Submit two (2) signed copies of Approval Resolution No. 15- \_\_\_\_\_ to the Planning Division prior to issuance of building permits.
12. Approval of the vesting tentative map shall be in compliance with approval of building allotments awarded to applications MC-13-12: Monterey – UCP & MC-14-13: Monterey – KB Gippetti and subject to conditions agreed to in the adopted development agreement.

13. Prior to approval of the final map, the property owner shall submit to the Planning Division two (2) signed notarized copies of the Development Agreement for the project.
14. Prior to approval of the final map, the project shall obtain Design Review approval of the project.
15. The applicant shall be subject to compliance with the mitigation measures of the project environmental assessment, as follows:

**A. *Air Quality:***

The following mitigation measure will reduce locally-elevated TAC concentrations resulting from diesel-generated construction equipment:

**MM AQ-1:** The project proponent shall implement the following measures to ensure cancer risk during construction does not exceed BAAQMD's threshold of 10 in one million excess cancer cases. Equipment shall be selected during demolition, grading, and trenching construction phases to minimize emissions. Such equipment shall include the following:

- Large construction equipment (i.e., over 50 horsepower) working for more than two days continuously on the site shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent; and
- Minimize the number of hours that equipment will operate including the use of idling restrictions.

The City of Morgan Hill Community Development Department shall ensure that these guidelines are noted on the construction drawings prior to issuance of a building permit or approval of project's improvement plans.

**B. *Biological:***

The following mitigation measure will reduce construction activities on the project site that could result in the incidental loss of eggs or nestlings, either directly through the destruction or disturbance of active nests or indirectly by causing the abandonment of nests:

**MM BIO-1:** Vegetation removal shall occur outside of the breeding season, which is typically between February 1<sup>st</sup> and August 31<sup>st</sup>.

- If it is not possible to schedule construction activities between September 1<sup>st</sup> and January 31<sup>st</sup>, a nesting bird survey on the project site shall be completed by a qualified ornithologist 72 hours prior to the removal of vegetation and/or construction to determine absence or presence of nesting bird species. If the survey does not identify any nesting special-status bird species in the area potentially affected by the proposed activity, no further mitigation is required. If nest sites or young are located, a no-disturbance buffer shall be established around the active nest. The biologist will

consult with California Department of Fish and Wildlife (CDFW) to determine the size of the no-disturbance buffer, which is typically between 150 to 200 feet. The above shall be implemented in conjunction with measures described under Condition 1 of the Santa Clara Valley Habitat Plan which addresses species covered under the Federal Migratory Bird Treaty Act (MBTA).

The City of Morgan Hill Community Development Department shall ensure that these guidelines are noted on the construction drawings prior to issuance of a building permit or approval of project's improvement plans.

The following mitigation measure will reduce 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:** In conformance with the City of Morgan Hill Burrowing Owl Habitat Mitigation Plan, the following shall be implemented as part of the project to avoid direct impacts to burrowing owls and to offset impacts to their grassland habitat.

- Burrowing owl pre-construction surveys shall be completed to determine if burrowing owls are present within the footprint of the proposed grading area, no more than seven (7) days prior to the initiation of site clearing or construction activities.
- Should burrowing owls be found on the site during breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related activities shall occur outside the exclusion area until the young have fledged.
- If pre-construction surveys are completed during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Wildlife once mitigation has been provided.
- A final report on burrowing owls, including any protection measures, shall be submitted to the Director of Community Development prior to grading.

The City of Morgan Hill Community Development Department shall ensure that these guidelines are noted on the construction drawings prior to issuance of a building permit or approval of project's improvement plans.

The following mitigation measure will reduce the impacts to trees on the adjacent residential and school properties:

**MM BIO-3.1:** The project shall implement the following tree protection guidelines during project construction to protect trees proposed for retention adjacent to the site:

- Locate structures, grade changes, etc. as far as feasible from the 'dripline' area of the tree.

- Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5 times the ‘drip line’ area of trees. Where root damage cannot be avoided, roots encountered (over 1” diameter) should be exposed approximately 12” beyond the area to be disturbed (towards tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or power saw, and immediately back-filled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.
- Construct a temporary fence as far from the tree stem (trunk) as possible, completely surrounding the tree, and 6-8 feet in height. Post no parking or storage signs on fencing. Do not attach posting to the main stem of the tree.
- Do not allow vehicles, equipment, pedestrian traffic; building materials or debris storage; or disposal of toxic or other materials inside of the fenced off area.
- Avoid pruning immediately before, during, or immediately after construction impact. Perform only that pruning which is unavoidable due to conflicts with proposed development. Aesthetic pruning should not be performed for at least 1-2 years following completion of construction.
- Trees that would be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities, with not more than 6 lbs. of actual nitrogen per 1,000 square feet of accessible ‘drip line’ area or beyond.
- Mulch ‘rooting’ area with an acidic, organic compost or mulch.
- Arrange for periodic (Biannual/Quarterly) inspection of tree’s condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.
- Individual trees likely to suffer significant impacts based on the final site design may require specific, more extensive efforts and/or a more detailed specification provided by a certified arborist

The City of Morgan Hill Community Development Department shall ensure that these guidelines are noted on the construction drawings prior to issuance of a building permit or approval of project’s improvement plans.

*C. Noise:*

The following mitigation measure will reduce the exposure to exterior noise levels greater than 60 dBA Ldn, which exceeds the exterior noise and land use compatibility standards of the General Plan.

**MM NOI – 1.1:** Prior to the issuance of a building permit, an acoustical analysis shall be submitted for review for final design of the proposed residential uses. The exterior open



space areas shall be designed to meet an exterior  $L_{dn}$  of 60 dBA, if feasible. Based on the location of the project site, noise from trains would be acceptable below the 70 dBA  $L_{dn}$  threshold, additional roadway noise shall be reduced to 65 dBA  $L_{dn}$  in at least one open space area on the site. Mitigation measures for proposed open spaces uses may include: using the proposed buildings to provide shielding for outdoor use areas including courtyards, rear yards, side yards, etc; constructing sound walls or earth berms; and/or increased setback distances from the roadway. The final details for these measures shall be determined prior to issuance of building permits.

The City of Morgan Hill Community Development Department shall review and approve design-level acoustical analysis and incorporate there required measures on all construction documents, contracts, and project plans.

The following mitigation measure will reduce the exposure to interior noise levels greater than 45 dBA  $L_{dn}$ , on the site assuming standard residential construction methods:

**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 also comply with General Plan Policy 7a which requires maximum instantaneous noise levels from railroad trains ( $L_{max}$ ) to be reduced to 50 dBA in bedrooms and 55 dBA in other habitable rooms. The project shall incorporate sound control treatments, such as forced-air mechanical ventilation systems, sound-rated windows, and building facade treatments to meet an interior  $L_{dn}$  of 45 dBA (or 50 dBA as applicable) with the windows closed to the satisfaction of the City Building Official.

The City of Morgan Hill Community Development Department shall review and approve design-level acoustical analysis and incorporate there required measures on all construction documents, contracts, and project plans.

The following mitigation measure will reduce the noise generated by site improvements, grading, infrastructure improvements, and the construction of multi-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.
16. The project heights shall be reduced to comply with the base zone district height limitation of 30 feet or two and one-half stories if the City does not approve General Plan Text Amendment (GPA 15-01) which would eliminate the maximum building height requirement.
17. The Phasing Plan indicated as Table 1 included in the staff report dated August 11, 2015 shall be recorded on the final map to provide precise requirements of Measure C.

**PUBLIC WORKS**

18. PRIOR TO SUBMITTING ANY FINAL MAP AND IMPROVEMENTS PLANS, developer and project Engineer shall meet with Public Works Engineering Division to go over RDCS (Measure C) commitments to be addressed. Contact Scott Creer or Charlie Ha (408-778-6480) to schedule a pre-design meeting.
19. Project improvement plan shall address or satisfy all Measure C commitments prior to the recordation of the final map.
20. All retention/detention ponds shall be privately maintained by the Home Owners Association.
21. Stormwater runoff Management Plans (SWRMP) shall be submitted with final map and improvements plans.

22. Stormwater Pollution Prevention Plans (SWPPP) shall be submitted with final map and improvement plans.
23. Project shall extend the sanitary sewer main along the project frontage within the public street pavement with proper separation from existing water main.
24. Project shall extend the existing stormdrain main along the project frontage within public street pavement; storm lateral shall be the standard 15" RCP tied to a SD manhole along the public main.
25. Project shall provide 2" AC grind and overlay along the project frontage to the centerline of the street; project shall restripe as needed.
26. At drive approaches, the sidewalk shall meander around the drive approaches to maintain ADA path travel.
27. Project shall pay the underground in-lieu Public Works impact fee for overhead utilities located on the west side of Monterey Road.
28. Project shall incorporate Post Construction Requirements (PCRs) into the grading plans as required by resolution R3-2013-0032 and the **Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements (SEE CONDITION NO. 1 of the NPDES WATER QUALITY DIVISION STORMWATER MANAGEMENT DEVELOPMENT STANDARDS FOR POST CONSTRUCTION)**. Evaluate projects PCRs and RESUBMIT PLANS and appurtenant back up documents.
29. Obtain an encroachment permit from the Public Works Department prior to commencement of any work in the City's right-of-way or in connection with the City's utility system.
30. Public Works impact fees are required for this project and must be paid prior to occupancy of each unit.
31. **GENERAL**
  - h. 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)**
  - i. The applicant shall have a Final Map prepared by a registered engineer (licensed prior to 01/01/1982: registration number 33,965 or lower) or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be set as required by the Public Works Department. **(MHMC 17.20.200 A; 17.20.290; 17.24.010)**

- j. The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the Director of Public Works prior to submittal of Final Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**

- k. Obtain necessary encroachment permits from:

☒ City of Morgan Hill

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

- l. Improvement plans are to show water lines, sanitary Sewer, storm drain system, pavement widths, curve radius, and existing utilities.

- m. Enter into a:

☒ Subdivision Improvement Agreement (SIA)

with the City of Morgan Hill to cover required improvements. **(MHMC 12.02.150; 17.32.010 B; 17.32.160)**

- n. Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved. **(MHMC 17.20.350 H)**

- o. **IMPACT FEE INCREASE**-The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established impact fees to finance the cost of improvements required by new development. City Code Chapter 3.56.050 provides for automatic annual (July 1<sup>st</sup>) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. The City Public Works Department maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours. **(MHMC 3.56.010; 3.56.030; 3.56.050)**

32. **STREET IMPROVEMENTS**

- a. The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the Director of Public Works. All street improvements shall be constructed to the satisfaction of the Director of Public Works. The timing of the improvements will be determined by the City. **(MHMC 12.02.010; 12.02.090;**

**17.32.060 B; CMH General Plan; CMH Design Standards and Standard Details for Construction)**

- b. The project shall install and dedicate street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting in conformance with City of Morgan Hill requirements. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010; 17.32.060)**
- c. Dedication of a total of 55 feet from center line of public right-of-way on Monterey Road. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.90; 12.02.100; 17.28.010)**
- d. Underground existing utilities: all existing overhead utilities adjacent to any site boundary or along any street frontage of site shall be placed underground in accordance with City standards and affected utility company guidelines. **(MHMC 12.02.090 B; 17.32.020 E.1)**

25. **SANITARY SEWER SYSTEM**

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

26. **STORM DRAIN SYSTEM**

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

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

- d. Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the Director of Public Works.
  1. Storm drain calculations to determine detention/retention pond sizing and operations.
  2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
  3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control. (**CMH Design Standards and Standard Details for Construction**)
- e. Where the project adjoins existing Santa Clara Valley Water District storm drain facilities, applicant shall obtain dedication(s) of all necessary easement or right-of-way to accommodate established ultimate facilities master plan.
- f. As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number to will be issued to the construction site after the SWRCB receives and verifies the submitted ONLINE NOI information. The WIDI number and approved SWPPP Manual shall be provided to Public Works and the Building Department prior to any approval of grading activities (**SWRCB NPDES General Permit CA000002**).
- g. NPDES GENERAL PERMIT SITE SWPPP INSPECTIONS AND COMPLIANCE:
  1. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP)**.
  2. SWPPP Inspections shall occur weekly during the rainy season (September 15<sup>th</sup> thru May 1<sup>st</sup>).
  3. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
  4. 48 hours prior to and following a forecasted rain event, SWPPP inspections shall occur in addition to those of items 2 or 3 above.
  5. Per inspection conditions 2, 3, or 4, the NPDES SWPPP Inspector shall certify in writing to the Building and Public Works Department if the site is in compliance or non-compliance with the NPDES General Permit for Stormwater, site SWPPP

Manual, and Water Pollution Control Drawings (per the CMH-SWPPP Inspection Check List to be provided by Public Works). QSD/QSP SWPPP Inspectors shall forward onsite and offsite information/certification to the Building (on-site private property issues) and Public Works (public right-of-way issues) inspectors respectively.

6. Prior to rain events, BMPs not in compliance will need to be corrected immediately.
7. Illicit discharges per the NPDES General Permit, non-compliance of tracking control, and inlet protection within the public right of way shall be address immediately.
8. Other non-compliance issues need to be addressed within a 24 hour period.
9. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow up inspection.

27. WATER SYSTEM

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

28. OTHER CONDITIONS

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

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

### **NPDES WATER QUALITY DIVISION**

#### **STORMWATER MANAGEMENT DEVELOPMENT STANDARDS FOR POST CONSTRUCTION**

- 29. State Water Resources Control Board Post Construction Requirements (PCRs) **(RESUBMIT PLANS TO INCLUDE THE FOLLOWING PCR REQUIREMENTS; UPDATE PLANS AND PROVIDE CALCULATIONS AND WORKS SHEETS AS REQUIRED):**

Project shall comply with the California Regional Water Quality Control Board Central Coast Region Resolution No. R3-2013-0032 as documented by the **Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements** (developed from Resolution No. R-2013-0032 Attachment 1 and 2 at: [http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/stormwater/docs/lid/lid\\_hydromod\\_charette\\_index.shtml](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hydromod_charette_index.shtml)). A copy of the guidance manual can be obtained through the Department of Public Works internet site.

  - a. Project shall provide Stormwater Control Plan Checklist and applicable calculations per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements.
  - b. Project shall meet the applicable requirements of the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements:
    - 1. Performance Requirement 1: Site Design and Runoff Reduction
    - 2. Performance Requirement 2: Water Quality Treatment
    - 3. Performance Requirement 3: Runoff Retention
    - 4. Performance Requirement 4: Peak Management
- 30. Design Standards Applicable to All Categories



- a. **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.
- b. **Conserve Natural Areas** - If applicable, the following items are required and must be implemented in the site layout during the subdivision design and approval process, consistent with applicable General Plan and Local Area Plan policies:
  1. Concentrate or cluster Development on portions of a site while leaving the remaining land in a natural undisturbed condition.
  2. Limit clearing and grading of native vegetation at a site to the minimum amount needed to build lots, allow access, and provide fire protection.
  3. Maximize trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.
  4. Promote natural vegetation by using parking lot islands and other landscaped areas.
  5. Preserve riparian areas and wetlands.
- c. **Minimize Storm Water Pollutants of Concern** - Storm water runoff from a site has the potential to contribute oil and grease, suspended solids, metals, gasoline, pesticides, and pathogens to the storm water conveyance system. The development must be designed so as to minimize, to the maximum extent practicable, the introduction of pollutants of concern that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the storm water conveyance system as approved by the building official. Pollutants of concern consist of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water, elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bio-accumulate in organisms therein, or the detectable inputs of the pollutant are at concentrations or loads considered potentially toxic to humans and/or flora and fauna.

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

- i. California Stormwater Quality Association (CASQA) Handbook: BMPs for New Development and Redevelopment
- ii. Bay Area Stormwater Management Agencies Association (BASMAA) Design Guidance Manual for Stormwater Quality Protection: Start at the Source 1999

*Other available sources of BMP's*

- iii. California Storm Water Best Management Practices Handbooks
- iv. Caltrans Storm Water Quality Handbook: Planning and Design Staff Guide

- d. **Provide Storm Drain System Stenciling and Signage** - Storm drain stencils are highly visible source controls that are typically placed directly adjacent to storm drain inlets. The stencil contains a brief statement that prohibits the dumping of improper materials into the storm water conveyance system. Graphical icons, either illustrating anti-dumping symbols or images of receiving water fauna, are effective supplements to the anti-dumping message. All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: “NO DUMPING – DRAINS TO CREEK”) and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area. Legibility of stencils and signs must be maintained.
- e. **Properly Design Outdoor Material Storage Areas** - Outdoor material storage areas refer to storage areas or storage facilities solely for the storage of materials. Improper storage of materials outdoors may provide an opportunity for toxic compounds, oil and grease, heavy metals, nutrients, suspended solids, and other pollutants to enter the storm water conveyance system. Where proposed project plans include outdoor areas for storage of materials that may contribute pollutants to the storm water conveyance system, the following Structural or Treatment BMPs are required:
  - 1. 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.
  - 2. The storage area must be paved and sufficiently impervious to contain leaks and spills.
  - 3. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.
- f. **Properly Design Trash Storage Areas** - A trash storage area refers to an area where a trash receptacle or receptacles (dumpsters) are located for use as a repository for solid wastes. Loose trash and debris can be easily transported by the forces of water or wind into nearby storm drain inlets, channels, and/or creeks. All trash container areas must meet the following Structural or Treatment Control BMP requirements (individual single family residences are exempt from these requirements):
  - 1. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area(s).
  - 2. Trash container areas must be screened or walled to prevent off-site transport of trash.
- g. **Design Standards for Structural or Treatment Control BMPs** - The post-construction treatment control BMPs shall incorporate, at a minimum, either a volumetric or flow based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) storm water runoff:
  - 1. Volumetric Treatment Control BMP
    - i. 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
- ii. 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
  - iii. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for “treatment” that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.
2. Flow Based Treatment Control BMP
- i. 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
  - ii. 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.
- h. **Stormwater Runoff Management Plan (SRMP) required** - The stormwater runoff management plan shall include sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures (post construction BMPs) proposed for managing stormwater runoff.
1. The stormwater runoff management plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved stormwater runoff management plan.
  2. The chief engineer or designee may require a developer to provide a signed certification from the civil engineer responsible for preparing the stormwater runoff management plan that all stormwater best management practices have been designed to meet the requirements of this chapter.
  3. Each certifying civil engineer shall establish to the city's satisfaction that such person has been trained on the design of stormwater quality best management practices not more than three years prior to the certification signature date.
  4. Qualifying training shall be conducted by an organization with stormwater quality management expertise, such as a university, the Bay Area Stormwater Management Agencies Association, the American Society of Civil Engineers, the American Public Works Association, or the California Water Environment Association.
- i. **Stormwater BMP operation, maintenance, and replacement responsibility**
1. All on-site stormwater management facilities shall be operated and maintained in good condition and promptly repaired/replaced by the property owner(s), an owners' or homeowners' association or other legal entity approved by the city.
  2. Any repairs or restoration/replacement and maintenance shall be in accordance with city-approved plans.
  3. The property owner(s) shall develop a maintenance schedule for the life of any stormwater management facility and shall describe the maintenance to be completed, the time period for completion, and who shall perform the

maintenance. This maintenance schedule shall be included with the approved stormwater runoff management plan.

- j. **Stormwater BMP operation and Maintenance Agreement (SWBOMA) required** - Improper maintenance is one of the most common reasons why water quality controls will not function as designed or which may cause the system to fail entirely. It is important to consider who will be responsible for maintenance of a permanent BMP, and what equipment is required to perform the maintenance properly.

1. Prior to the issuance of any building permit requiring stormwater management BMPs, the owner(s) of the site shall enter into a formal written stormwater BMP operation and maintenance agreement with the city. The city shall record this agreement, against the property or properties involved, with the County of Santa Clara and it shall be binding on all subsequent owners of land served by the storm water management treatment BMPs (City standard STORMWATER BMP OPERATION AND MAINTENANCE AGREEMENT to be provided by Public Works Engineering).
2. The stormwater BMP operation and maintenance agreement shall require that the BMPs not be modified and BMP maintenance activities not alter the designed function of the facility from its original design unless approved by the city prior to the commencement of the proposed modification or maintenance activity.
3. The stormwater BMP operation and maintenance agreement shall provide that in the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the city shall have the authority to perform maintenance and/or repair work and to recover the costs from the owner.

- k. **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 **knowledgeable party**.
2. Unless otherwise required by the chief engineer or designee, stormwater facility inspections shall be done at least twice per year, once in fall, in preparation for the wet season, and once in winter. Written records shall be kept of all inspections and shall include, at minimum, the following information:
  - i. Site address;
  - ii. Date and time of inspection;
  - iii. Name of the person conducting the inspection;
  - iv. List of stormwater facilities inspected;
  - v. Condition of each stormwater facility inspected;
  - vi. Description of any needed maintenance or repairs; and
  - vii. As applicable, the need for site reinspection.
3. Upon completion of each inspection, an inspection report shall be submitted to Public Works Engineering.

1. **Records of maintenance and inspection activities** - On or before April 15<sup>th</sup> and September 15<sup>th</sup> of each year, the party responsible for the operation and maintenance of on-site stormwater management facilities under the BMP operation and maintenance

agreement shall provide the chief engineer or designee with records of all inspections, maintenance and repairs.

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

## **FIRE DEPARTMENT**

- 31. **Automatic Fire Sprinkler System Required (SFD).** New homes located within the hazardous fire area, and in the non hazardous fire area homes shall be protected throughout by an approved, automatic fire sprinkler system, hydraulically designed per National Fire Protection Association (NFPA) Standard #13D (**CFC Chapter 9 as amended by MHMC 15.44.170**)
- 32. **Automatic Fire Sprinkler System Required (Condo).** Buildings requiring automatic fire sprinklers shall be equipped throughout with an approved automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA Standard #13. (**CFC Chapter 9 as amended by MHMC 15.44.170**)
- 33. **Public Fire Hydrant(s) required.** Provide six (6) public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the City of Morgan Hill Public Works Department. Maximum hydrant spacing shall be 500 feet and the minimum single flow hydrant shall be 1500 GPM at 20 psi residual pressure. If fire hydrants are already in place, include civil drawings showing location of all hydrants with the building permit submittal. (**CFC 507**)
- 34. **Timing of Required Roadway/Driveway Installations.** Prior to the commencement of combustible construction, the required roadways/driveway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the City of Morgan Hill unless otherwise approved in writing by the Fire Marshal, bulk combustible construction materials shall not be delivered to the construction site until installations are completed as stated above. During construction, emergency access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed. (**CFC Chapter 14 as amended by MHMC 15.44.180**)
- 35. **Timing of Required Water Supply Installations.** Prior to the commencement of combustible construction, the required Fire Hydrant and Water Supply installations shall be in place, inspected, tested, and accepted by the Fire Department and the City of Morgan Hill, unless otherwise approved in writing by the Fire Marshal. Bulk construction materials may not be delivered to the construction site until installations are completed as stated above. Clearance for building permits may be held until installations are completed. (**CFC Chapter 14 as amended by MHMC 15.44.180**)