CITY OF MORGAN HILL

COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION
17575 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

DRAFT
MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Application #s: ZA 14-23; SD 14-12; DA 14-10; EA 14-24

APN: 817-19-044

Project Title: East Dunne - Busk Residential Project

Project Location: The 3.65-acre project site is located on the southeastern corner of the intersection of East Dunne and Murphy avenues,, within an urbanized portion of Morgan Hill. **Figure 1** shows the location of the project site. The subject property is comprised of one parcel (APN 817-19-044) that has been historically used for agricultural purposes.

Project Proponent: Betty Busk
1390 East Dunne Avenue
Morgan Hill, CA 95037

Project Description: The project applicant is requesting approval for the following on the 3.65-acre site (APN 817-19-044):

- Subdivision of the project site into 14 residential lots;
- Construct 10 detached single-family residences, retain 2 existing single-family residences, and build 2 single-family attached residential units; and
- Retain 0.31 acre (13,504 s.f.) of open space on the site.

The proposed project would involve the development of a total of 12 new residences on the project site in addition to the preservation of two houses on the property.

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 are included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

III. CONDITIONS (Mitigation and Standard Measures):

A. Air Quality

Although the project's construction-related air pollutant emissions would not exceed the BAAQMD's applicable significance thresholds, the following measures are recommended by the BAAQMD to reduce the project's construction emissions:

MM AQ-1: **Basic Construction Measures.** To limit the project's construction-related dust and criteria pollutant emissions, the following BAAQMD-recommended Basic Construction Mitigation Measures shall be included in the project's grading plan, building plans, and contract specifications:

a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
b. All haul trucks transporting soi, sand, or other loose material off-site shall be covered.
c. 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.
d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
h. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

MM AQ-2: **Enhanced Particulate Controls.** Any diesel-powered dozers, graders, loader/backhoes, excavators, and cranes (> 75 HP) used during project construction shall be equipped with diesel particulate filters to reduce particulate emissions and associated health risks to infants. In addition,

all exposed surfaces shall be watered three times per day rather than twice per day as listed above under Basic Construction Measures.

B. Cultural Resources

The following standard measures will reduce potential impacts from site preparation and construction grading on unknown cultural resources that could occur on the project site.

SM CUL-1: The City will require monitoring of ground-disturbing activities for archaeological resources and the reporting of appropriate treatment and disposition of such resources that may be uncovered. In the event that undocumented human remains or unknown significant historic or archaeological resources are discovered, subsection B.2. of Section 18.75.110 provides a specific protocol for the treatment of the uncovered human remains and/or resources. The protocol entails the process of identifying the human remains and the contact of appropriate parties such as the Native American Heritage Commission and the Amah Mutsun Tribal Band to determine Most Likely Descendant for further consultation on the disposition of the remains. As noted in the City's ordinance, the completion of the standard conditions of approval would reduce potentially significant impacts on archaeological resources to a less than significant level.

C. Geology and Soils

The project site, like other surrounding developed areas in Morgan Hill, will be subject to very strong ground shaking from future strong earthquakes in the site vicinity.

SM GEO-1: Conformance with the current California Building Code along with site-specific seismic design parameters specified in the geotechnical report required by the City will be adequate to reduce potentially significant groundshaking hazards to less than significant.

SM GEO-2: As a Standard Condition of Approval, the project applicant would be required to implement an erosion control plan. The proposed erosion control measures would include use of fiber rolls or silt fences along the perimeter of all proposed private drives, installation of a sediment barrier at the site's principal storm drain inlet, provision of gravel bag check dams on the proposed public street, and hydroseeding of designated areas.

D. Hazards and Hazardous Materials

The following mitigation measures will reduce potential hazardous materials impacts from structure demolition, site preparation, and construction grading that could occur on the project site.

MM HAZ-1: **Implement Buyer Education Program for Household Hazardous Waste:** The project sponsor, working with the City of Morgan Hill and County of Santa Clara Household Hazardous Waste program, shall implement a Buyer Education Program for Household Hazardous Waste, developing materials to educate buyers about the identification of household hazardous wastes, environmental hazards associated with mishandling of the wastes, appropriate disposal methods, and how to make an appointment for disposal. At a minimum, the educational materials shall include a list of example household hazardous wastes, discuss the environmental impacts of improper disposal, explain how to make an appointment for disposal, and list safer and less toxic alternatives to hazardous products commonly used. The educational materials shall be provided to the buyer at the time of purchase.

MM HAZ-2: **Removal and Disposal of Existing Hazardous Materials.** Removal and Disposal of Existing Hazardous Materials. Prior to demolition of the existing buildings at the project site, the project applicant shall retain a qualified and licensed contractor to remove all hazardous materials (pesticides, fungicides, other agricultural chemicals, sealants, lubricants, antifreeze, paints, and others) as well as all fuel tanks and 55- gallon drums from the property, and legally dispose of these materials. Documentation of appropriate disposal shall be submitted to the City of Morgan Hill Community Development Agency Building Division prior to issuance of a demolition permit.

MM HAZ-3: **Hazardous Building Materials Removal.** Prior to demolition of the existing buildings at the project site, the project applicant shall require that the contractor(s) have a hazardous building materials survey completed by a Registered Environmental Assessor or a registered engineer. This survey shall be completed prior to any demolition activities associated with the project. If any friable asbestos-containing materials or lead-containing materials are identified, adequate abatement practices, such as containment and/or removal, shall be implemented in accordance with applicable laws prior to demolition. Specifically, asbestos abatement shall be conducted in accordance with Section 19827.5 of the California Health and Safety Code, as implemented by the BAAQMD, and 8 CCR Section 1529 and Sections 341.6 through 341.14, as implemented by Cal/OSHA. Lead-based paint abatement shall be conducted in accordance with Cal/OSHA's Lead in Construction Standard.

Any PCB-containing equipment, fluorescent light tubes containing mercury vapors, and fluorescent light ballasts containing DEHP shall also be removed and legally disposed of in accordance with applicable laws including 22 CCR Section 66261.24 for PCBs, 22 CCR Section 66273.8 for fluorescent lamp tubes, and 22 CCR Division 4.5, Chapter 11 for DEHP.

MM HAZ-4: Soil Sampling and Management. The following measures shall be required to reduce public health risks related to exposure to hazardous materials to a less-than-significant level. Oversight agency review may amend these measures as applicable.

a. The project applicant shall retain a qualified professional to update the environmental database review performed as part of the Phase 1 Environmental Site Assessment no more than 90 days prior to the start of construction. The qualified professional shall prepare a report summarizing the results of the environmental database review and assessing the potential for any identified chemical release sites to affect soil quality at the proposed project site. Appropriate soil analysis to evaluate the potential for soil contamination at the proposed project site, if needed, shall also be identified.

b. The project applicant shall retain a qualified professional to conduct a soil quality investigation to assess the potential presence of pesticides and associated metals in the soil as well as the potential presence of any hazardous materials that may have been spilled. If the updated environmental database review performed in accordance with HAZ-4a, above, identifies the need for additional sampling, it shall be included in this investigation. The qualified professional shall prepare a report summarizing the results of the soil investigation, including recommendations for site cleanup and disposal of excavated soil.

c. The project applicant shall participate in the Voluntary Cleanup Program (VCP) administered by the Santa Clara County Department of Environmental Health (County) to develop the appropriate plan of action based on the results of the soil quality investigation conducted under HAZ-4b, above. If additional investigation or remediation is needed, the project applicant shall implement such action with oversight from the County, unless referred to an alternate agency.

d. The applicant shall submit a "no further action" letter from the oversight agency or comparable closure document that demonstrates the site has been released as clean or a mitigation plan has been approved and implemented. Each phase of building permit issuance shall be contingent upon approval of the soil investigation and remediation documentation.

e. If the soil investigation identifies soil requiring off-site disposal that is not suitable for unrestricted disposal, the project applicant shall require the construction contractor(s) to prepare a Soil Management Plan (SMP). The SMP shall provide a plan for disposal of identified hazardous soils and excess soil produced during construction activities, including the disposal methods for soil, potential disposal sites, and requirements for written documentation that the disposal site will accept the excess soil. If appropriate, excess soil may be disposed of on-site, under foundations or in other locations in

accordance with applicable hazardous waste classifications and disposal regulations.

The contractor shall be required to submit the SMP to the project applicant for acceptance prior to implementation. If necessary, excess soil from construction activities shall be sampled to determine the appropriate disposal requirements in accordance with applicable hazardous waste classification and disposal regulations prior to or during construction,. The project applicant shall also submit the SMP to the County of Santa Clara Department of Environmental Health a minimum of 30 days prior to the planned start of construction,

f. If recommended by the qualified professional, the project applicant shall require the construction contractor to prepare and implement a site safety plan identifying the chemicals present, potential health and safety hazards, monitoring to be performed during site activities, soils-handling methods required to minimize the potential for exposure to harmful levels of the chemicals identified in the soil, appropriate personnel protective equipment, and emergency response procedures.

g. The project applicant shall require the construction contractor(s) to have a contingency plan for sampling and analysis of potential hazardous materials and for coordination with the appropriate regulatory agencies, in the event that previously unidentified hazardous materials are encountered during construction. If any hazardous materials are identified, the contractor(s) shall be required to modify their health and safety plan to include the new data, conduct sampling to assess the chemicals present, and identify appropriate disposal methods. Evidence of potential contamination includes soil discoloration, suspicious odors, the presence of USTs, or the presence of buried building materials.

E. Hydrology and Water Quality

In accordance with the City of Morgan Hill Standard Conditions of Approval and the General National Pollutant Discharge Elimination System Storm Water Permit for Construction Activities, the following measures have been included in the project to reduce potential construction-related water quality impacts to a less than significant level:

SM HYD-1: In order to be consistent with the City's requirements for storm runoff control, the proposed project design would need to include the development of a storm water detention basin or other drainage control structures on the subject property. The storm drainage facilities proposed for the project would need to be consistent with provisions the City's Storm Drainage System Master Plan and the stormwater-related conditions of project approval. The incorporation of the Stormwater Conditions for construction activities, post-construction operation of the project, and LID would reduce the potentially significant impacts of the

project on stormwater quality to less than significant levels.

E. Noise

The following mitigation measures will reduce potential hazardous materials impacts from structure demolition, site preparation, and construction grading that could occur on the project site.

MM NOI-1: Exterior Noise Control. To achieve compliance with the 60 dB DNL limit of the City of Morgan Hill Noise Element standards for the noise-impacted rear yards along East Dunne Avenue and Murphy Avenue, the following noise control barrier shall be required:

- Construct six-foot high acoustically-effective barriers at the side and rear yards of Lots 2, 3, 7, 8 and 14 (see Figure 1 of Attachment 5. The barrier height is in reference to the nearest building pad elevation. To control flanking noise, the barriers at the fronts of the houses shall be turned to connect air-tight to the sides of the houses. In addition, the barrier behind Lot 14 shall be connected air-tight to the existing barrier along the easterly property line.

  To achieve an acoustically-effective barrier, the barrier must be constructed air-tight, i.e., without cracks, gaps or other openings, and must provide for long term durability. Barriers can be constructed of masonry, wood, concrete, stucco, earth berm or a combination thereof and must have a minimum surface weight of 2.5 pounds per square foot. If wood fencing is used, homogeneous sheet materials are preferable to conventional wood fencing as the latter has a tendency to warp and form openings with age. However, high quality, air-tight, tongue-and-groove, board and batten or shiplap construction can be used. All connections with posts, pilasters or building shells must be sealed air-tight. No openings are permitted between the upper barrier components and the ground. Gates may be incorporated into the barriers, however, they must be meet the minimum surface weight requirement and must seal tight when closed. The gap at the bottom of the gate shall be less than one inch.

MM NOI-2: Interior Noise Control. To achieve compliance with the City's 55-dBA L_{max} limit for living spaces and the 50-dBA L_{max} limit for bedrooms, the following window controls shall be required:

- Maintain closed at all times all windows and glass doors that are proposed in bedrooms and living spaces on the second floors and unshielded first floors (i.e., a view to the road beyond a noise control barrier) located within 190 feet of the East Dunne Avenue centerline and with a direct or side view to this roadway (west, north and east facades). Shielded facades include the first floors of the rear and side facades of Lots 6, 7, 8, 12, 13, and 14. See Figure 2 of

Attachment 5 for the locations of the noise impacted building facades and recommended STC ratings. At impacted spaces located within 120 feet of the centerline, windows and glass doors rated minimum Sound Transmission Class (STC) 31 shall be installed. At the noise impacted spaces between 120 feet and 190 feet of the centerline, install windows and glass doors rated minimum STC 28.

Some type of mechanical ventilation to assure a habitable environment must be provided, per the Mechanical Code. Noise control windows are to be operable, as the requirement does not imply a "fixed" condition. In addition to the required STC ratings, the windows and doors shall be installed in an acoustically-effective manner. To achieve an acoustically-effective window construction, the sliding window and door panels must form an air-tight seal to the outside environment when in the closed position and the window frames must be caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration. Exterior doors must seal air-tight around the full perimeter when in the closed position.

Please be aware that many dual-pane window and glass door assemblies have inherent noise reduction problems in the traffic noise frequency spectrum due to resonance that occurs within the air space between the window lites, and the noise reduction capabilities vary from manufacturer to manufacturer. Therefore, the acoustical test report of all sound rated windows should be reviewed by a qualified acoustician to ensure that the chosen windows will adequately reduce traffic noise to acceptable levels.

In addition, the following general building shell controls are also recommended to ensure the greatest potential exterior-to-interior attenuation where closed windows are required (see Appendix B of Attachment 5:

- Unshielded entry doors having a direct or side orientation toward the primary noise source must be 1-5/8" or 1-3/4" thick, insulated metal or solid-core wood construction with effective weather seals around the full perimeter.
- If any penetrations in the building shell are required for vents, piping, conduit, etc., sound leakage around these penetrations can be controlled by sealing all cracks and clearance spaces with a non-hardening caulking compound.
- Ventilation devices shall not compromise the acoustical integrity of the building shell.

MM NOI-3: Implement Construction Noise Controls. The following measures shall be required if future residences on the property immediately to the northwest are constructed and occupied at the time of project construction. However, these measures are recommended in any case to

help minimize the potential for annoyance at nearby residential receptors:

- Quiet or "new technology" equipment should be used wherever feasible. All internal combustion engines used at the project site should be equipped with mufflers (as recommended by the vehicle manufacturer). In addition, all equipment should be in good mechanical condition so as to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
- Noisy operations shall be scheduled for the daytime hours (7:00 a.m. to 8:00 p.m., Monday through Friday and 9:00 a.m. to 6:00 pm. on Saturdays) in accordance with time limits specified in the City of Morgan Hill Zoning Ordinance.
- All diesel-powered equipment should be located more than 200 feet from any residence to the extent feasible if the equipment is to operate for more than several hours per day.
- Locate stockpiled materials so that they can help block construction noise at nearby sensitive receptors.
- Noise reduction benefits could also be achieved by appropriate selection of equipment utilized for various operations (subject to equipment availability and cost considerations). The following measures are recommended to reduce noise impacts on nearby residents:
  - Earth Removal: Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.
  - Backfilling: Use a backhoe for backfilling, as it is less costly and quieter than either dozers or loaders.
  - Ground Preparation: Use a motor grader rather than a bulldozer for final grading.
  - Building Construction: Powers saws should be shielded or enclosed where practical to decrease noise emissions. Nail guns should be used where possible as they are less noisy than manual hammering.
  - Construction Phasing: Construct buildings or other significant structures at the site perimeter to help shield existing sensitive receptors from noise generated on the site.

III. FINDING

The City of Morgan Hill Community and Economic Development Director 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 summarized above and described in the initial study are included in the project.

Andrew Crabtree
Community Development Director

Date: _____