



Planning Commission

Staff Report

January 13, 2015

GENERAL PLAN AMENDMENT GPA-13-01: CONDIT-EVERGREEN

RECOMMENDATION

Environmental Assessment:	Recommend certification of the Project Final Environmental Impact Report to the City Council.
General Plan, GPA-13-01:	Recommend City Council approval of the Proposed General Plan Amendment and Memorandum of Understanding (MOU)

PROJECT SUMMARY

Location:	North side of San Pedro Avenue between Condit Road and Murphy Avenue, extending northward to approximately 750 feet south of East Dune Avenue (APNs: 817-12-006 and 817-12-009)
Site Area:	18.18 Acres
General Plan:	Commercial
Zoning:	CG General Commercial
Request:	General Plan Amendment to change land use designation to Multi-Family Medium and Multi-Family Low

Project Description

The Project applicant is requesting to change the General Plan land use designation for the site from *Commercial* to *Multi-Family Medium* on approximately 9.5 acres of the site and to *Multi-Family Low* on approximately 7.5 acres of the site. If approved, the General Plan Amendment (GPA) will support future development of the site with multi-family, duplex, or single-family attached houses at an allowable density range of 14 to 21 dwelling units per acre (du/ac) on the western half and at an allowable density range of 5 to 14 dwelling units per acre (du/ac) on the eastern half of the project site. A conceptual site plan included with the project application suggests that this could result in the future development of 146 stacked flats, 80 apartments and 76 townhomes, along with various amenity areas.

To support the proposed General Plan Amendment, the applicant has proposed that the City and the applicant enter into a Memorandum of Understanding (MOU) which will establish terms for the future development of the project. If the General Plan Amendment is approved, the applicant intends to submit a Measure C application in 2015 and would subsequently rezone the property and seek other entitlements to allow its future development.

Project Site

The 18.18-acre Project site includes two vacant parcels. The eastern 9.5-acre parcel is open space overgrown with non-native annual grasslands. A small group of mature trees and the remnants of a former residence and farmhouse complex are located at the northeastern corner of the parcel. The western 8.5-acre parcel is occupied with an abandoned walnut orchard.

The project site is bordered by properties designated Commercial to the west and to the north, by properties designated Residential Estate to the east, by property designated Public Facilities to the south (across San Pedro Avenue).

Figure 1: Project Site and Surrounding Land Uses



BACKGROUND

The project was initially scheduled for the November 18, 2014 Planning Commission meeting. At that time, staff was not recommending approval of the requested General Plan Amendment (see attached staff report). The applicant requested, with staff support, that the project be deferred until a January Planning Commission hearing in order to allow time for staff and the applicant to work together to address the concerns identified by staff as reasons for not supporting the Amendment.

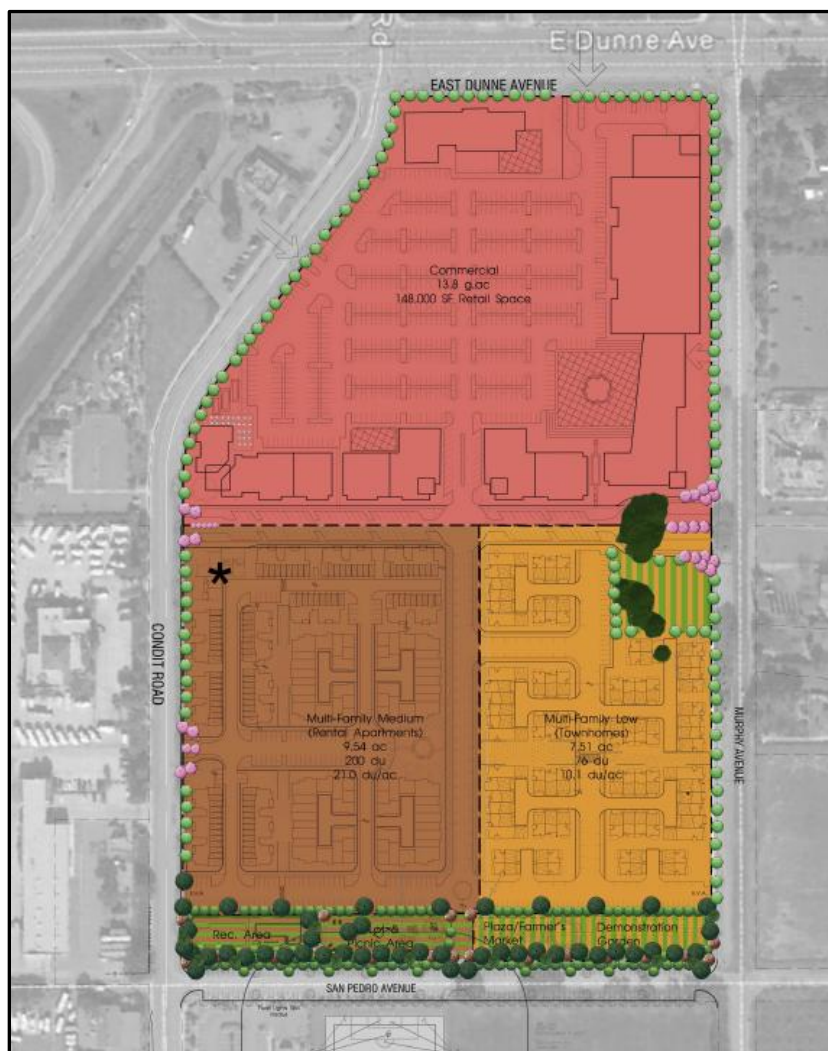
ANALYSIS

Since the November 18 Planning Commission meeting, staff and the applicant team have met and had multiple discussion regarding how the project might address the concerns previously raised by staff and the applicant has provided a conceptual site and worked with staff to draft an MOU in response to those concerns. As stated in the previous staff report, the project needs to address the following primary concerns:

- **Site suitability for Multi-family.** Because the site would be surrounded by commercial uses on three sides, have limited access to services that would support future residents, and not connect to an existing residential neighborhood, its conversion to residential use would be inconsistent with General Plan policies that state new multi-family development should be placed at locations with good access to services to support future residents.
- **Loss of Commercial Opportunity.** Given the property's proximity to the freeway, size, and adjacency to the Outdoor Sports Center, the site presents a potentially valuable opportunity for future commercial development.
- **Compatibility with adjacent uses.** The adjacent Outdoor Sports Center (OSC) is a source of noise and glare (from overhead lighting) that could be considered a nuisance by future residents on the subject property if it is converted to housing. The OSC is a very important Morgan Hill asset and the City should avoid making a land use decision which could negatively impact its operation.
- **Impacts to the Downtown.** Focusing the City's growth within the Downtown and the Monterey Corridor would take advantage of services, proximity to transit, support the downtown plan and connect to existing neighborhoods. Facilitating multi-family residential development at other locations could divert potential development activity away from the Downtown to sites which would be less complicated or less costly to develop.
- **Economic and fiscal impact analysis.** The project fiscal impact analysis demonstrates that commercial land use provides an ongoing benefit to the City's General Fund, while the residential developments are fiscally neutral.

The proposed land development (Concept) plan and MOU demonstrate that the project applicant intends to develop the subject property in a manner that would adequately address each of these concerns (and other raised in the prior staff report) and substantially meet other City goals, including the provision of attractive, multi-family rental housing, such that staff supports the proposed General Plan Amendment and MOU with the expectation that future development of the site will be implemented consistent with these documents. The MOU outlines a mutual understanding between the applicant and the City for the processing of a series of applications relating to the development of the project, which would culminate in the adoption of a Development Agreement in the future.

Figure 1: Proposed Land Use Plan



As shown on the Proposed Land Use plan, the project applicant has expanded their site planning to include the adjacent parcels to the north, which would remain as commercial. This adjacent property is not currently under control by the applicant, however, it is referenced in the proposed MOU and the MOU provides expectations for the City and applicant regarding development of the property.

Another change from the previous project request is that instead of the entire project site's General Plan Land Use designation being changed from *Commercial* to *Multi-Family Medium*, only approximately 9.5 acres would be changed to *Multi-Family Medium*, while the other approximate 7.5 acres would be changed to *Multi-Family Low*. Previous concept plans for the site had shown future townhouse development on its eastern site. The revised Amendment request results in better consistency within each parcel against the density requirements of the General Plan (Figure 1 and Table 1).

Table 1: Proposed Land Use Plan Breakdown

Land Use	Acreage	Units	Density	General Plan Density
Multi-Family Low	7.51 gross	76	10.1/ gr. acre	(5-14/gr. acre)
a. Residential	6.07 net	76	12.5/net acre	-
b. Open Space	1.44 net	-	-	-
Multi-Family Medium	9.54	200	21.0/gr. acre	(14-21/gr. acre)
a. Residential	8.54 net	200	23.4/net acre	-
b. Open Space	1.0 net	-	-	-

The applicant has recognized a gap in the housing product type provided in Morgan Hill. The site provides opportunity to create a new and dynamic living environment attractive to young professionals and add to the destination created by the Outdoor Sports Center, by adding nearby publicly accessible amenities and providing a positive pedestrian connection to new commercial development.

Specifically, the proposed conceptual site plan suggests that the project would accomplish the following:

- 1) Facilitate near-term commercial development, encouraging near-term commercial development and an aggregate positive fiscal benefit. While residential development requires services that expend General Fund resources, this is offset by the need for multi-family housing in areas where it can be found to be appropriate and will not conflict with other City goals, and policies. If new residential development directly promotes commercial development, then the negative fiscal impacts are further offset;
- 2) Successfully address the residential-OSC interface with a good buffer and amenity zone. A concern of the previous iteration of the project was that its proximity to the Outdoor Sports Center created adjacency conflicts, with regard to lighting and other perceived potential nuisances with the typical operation of the athletic facility. The proposed site plan identifies a linear "amenity area" along San Pedro Avenue that would include active common area space such as a recreation area (swimming pool and recreation building), picnic area, plaza/farmer's market and demonstration garden. It is demonstrated that the extent of the Outdoor Sports Center field lighting would be confined to this linear area. Along Condit Road, Murphy Avenue, and the new west-east roadway, the residential buildings have their entries facing the streets, which would facilitate and encourage walking. The applicant has conducted a light glare study (see attachments) and plans to use construction techniques to mitigate noise impacts. In addition, the project would provide an open space amenity area that could be utilized by visitors to the OSC.

- 3) Provide a walkable higher-density neighborhood with good access to services. Facilitate near-term commercial development. One of the concerns of the previous iteration of the project was that the project was in isolation and not near walkable distance of neighborhood-serving services. The proposed site plan proposes potential commercial within the residential project site on the northeast portion of the project, which would presumably be in a vertical mixed-use configuration. In addition, according to the proposed MOU, the applicant is committed to best efforts of acquiring and developing approximately 148,000 square feet of commercial, which would alleviate the concerns that the proposed residential neighborhood would be set in isolation without walkable services nearby. In contrast, the previous iteration of the project included an abundance of surface parking with garage and parking areas facing the streets. The proposed site plan includes axial drives and walkways with residences entries facing the streets, which would encourage walking to nearby commercial services as those proposed in the MOU.

Figure 2 Proposed Site Plan



- 4) Provide a high-quality living environment distinct from the City's Downtown and provide multi-family housing in the near-term while the market for Downtown housing continues to mature.
- 5) Minimize potential negative fiscal impacts through high-quality design and the incorporation of commercial development with the project, while encouraging near-term development of the adjacent commercial property.

Public Benefit

If converted to residential use, the subject property would also be subject to the City's Beneficial Infill criteria for properties that were annexed into the City with a non-residential designation. The Proposed Site Plan depicts a new parking area along San Pedro Avenue that would be constructed as part of the project and given to the City for public use. The project would also include dedication of some land from the project site to provide the needed public right-of-way. This proposed public benefit is supported by the City to help address the shortage of parking available for the OSC during some events.

Proposed MOU

The City has limited ability to "condition" future land use development when granting a General Plan Amendment. Therefore staff recommends that the City consider an MOU with the project applicant until such time as a more formal Development Agreement can be prepared. The MOU can establish a mutual set of expectations for how the subject property and adjacent property will be developed in the future. As drafted, the MOU (attached) includes both City goals and project developer goals, consistent with the concepts illustrated on the Proposed Site Plan. These include the proposed amount of residential development, 10,000 square feet of commercial area to be developed as part of the residential development and the intent to develop additional commercial on the adjacent property, and various project amenities, such as a pedestrian-friendly design, open space along San Pedro Avenue and the proposed new public benefit parking area.

Conclusion

Staff recommends that the Planning Commission recommend that the City Council adopt the General Plan and MOU. Support for the project is based upon the expectation that potential land use compatibility and other concerns will be addressed through the project design and in recognition of Morgan Hill's need to identify a variety of sites for multi-family housing. It is understood that the Downtown and Monterrey Corridor are the City's first priority for multi-family housing, but that if the City's goal is to strongly support multi-family projects, multiple locations are needed consistent with other City goals and policies.

If the project moves forward, it will be important to work carefully through the future development agreement and rezoning processes to insure that the project is fully designed in such a way as to provide a high-quality residential environment compatible with the City's OSC.

PUBLIC OUTREACH

The Project was publicly noticed and one comment (attached) was received from a resident living in vicinity to the project. The correspondence raises concerns (e.g., need for more parking for the OSC) which would be addressed in the project as proposed.

ENVIRONMENTAL ASSESSMENT

An Environmental Impact Report (EIR) (SCH Number 2014062078) was prepared for the Project in accordance with the California Environmental Quality Act (CEQA). A Notice of Preparation (NOP) was circulated between June 24, 2014 and July 23, 2014 to receive comments regarding the scope and content of the EIR. A public scoping meeting was held on July 14, 2014 to receive oral comments on the NOP. The Draft EIR was circulated between August 26, 2014 and October 9, 2014. The City received comments on the Draft EIR by three individuals/organizations. Responses to those comments and minor changes to the Draft EIR were included in a Final EIR document (See attachment).

The EIR identified that if the Project were to be implemented, significant impacts to aesthetics, air quality, biology, cultural resources, geology and soils, hydrology and water quality, hazardous materials, noise, and transportation could occur. Through implementation of mitigation measures, these impacts can be reduced to a level of less than significant except for the transportation impact.

Future development of the site with up to 381 residential dwelling units will result in a significant and unavoidable impact to the following freeway segment during the PM peak hour under existing plus project conditions: Southbound US 101, from Burnett Avenue (lane drop) to Cochrane Road, until such a time when Caltrans and local agencies undertake the planned widening of US 101 between Morgan Hill and Gilroy. There are no feasible mitigation measures available to reduce the impact to the freeway segment.

CEQA requires the decision-making agency to balance as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against unavoidable environmental risks when determining whether to approve the project. In order for the Project to be approved, a statement of overriding consideration must be made by the City Council acknowledging these outweighed benefits.

Attachments/Links:

1. Proposed MOU
2. Proposed Site Plan
3. Resolution GPA 13-01
4. Correspondence from Scott Zimmer
5. Final EIR: <http://www.morgan-hill.ca.gov/index.aspx?nid=1212>
6. Draft EIR Resolution and Statement of Overriding Considerations
7. Mitigation Monitoring and Reporting Program
8. November 18, 2014 Planning Commission Packet:
<http://www.morganhill.ca.gov/DocumentCenter/View/14722>

PREDEVELOPMENT MEMORANDUM OF UNDERSTANDING REGARDING CERTAIN UNDEVELOPED
PROPERTY REFERRED TO AS THE CONDIT-EVERGREEN SITE IN THE CITY OF MORGAN HILL,
SANTA CLARA COUNTY, CALIFORNIA

This Predevelopment Memorandum of Understanding (the "MOU") is effective this 4th day February, 2015, by and between the City of Morgan Hill, a municipal corporation (the "City") and Presidio Evergreen, LLC, a Delaware limited liability company (the "Owner").

Recitals

- A. Description of Owner's Property. Owner has optioned approximately 18 acres of land located in the incorporated limits of the city of Morgan Hill (the "City"), Santa Clara county (the "County"), which 18 acres of land consists of two adjacent parcels, Assessor's Parcel Numbers 817-12-006 and 817-12-009 (collectively, the "Property"). The Property is bordered by Murphy Avenue on the east, San Pedro Avenue on the south, Condit Road on the west, and approximately 13 acres of commercially designated property to the north.
- B. Description of Current Land Use Designation. On _____, 2015, Owner's application for an amendment to City's General Plan to change the General Plan designation for the Property on City's General Plan Land Use Diagram from "Commercial" use to "Multi-family medium density" on Assessor's Parcel No 817-12-00____ ("Parcel A") of the Property and to "Multi-family low density" on Assessor's Parcel No. 817-12-00____ ("Parcel B") of the Property was approved by City's City Council after a duly noticed and held public hearing on the application.
- C. Purpose. The purpose of this MOU is to memorialize a mutual understanding of Owner and City in connection with the processing of a series of applications relating to the development of the Property, including applications necessary for Zoning Map amendments, Measure C allocations, subdivision, and environmental review.

NOW THEREFORE, in consideration of the mutual covenants and understandings contained herein, the parties, the City and the Owner, agree as follows:

1. Development of the Property.

As an overview, the Owner desires to create a residential development opportunity within the Property and the City desires to secure community benefits within such development pursuant to requirements of the Morgan Hill Municipal Code, including those provisions relating to the conversion of commercially designated lands. The contemplated goals of the Owner and the City regarding the Property are as follows:

- a. *City's Goals.* The City desires for the Property to be developed in a manner that is compatible with nearby attractions, such as the Aquatic Center and Outdoor Sports Complex, and provide services to support the area including some commercial development. Further, the City's concerns with public accommodations and access, both residential and commercial, are shared with the Owner. As evidenced by the Owner's Goals set forth herein and as generally depicted on the illustrative Site Map attached hereto as "Exhibit A," which Site Map is incorporated herein by this reference, the City's goals are shared by the Owner.
- b. *Owner's Goals.* Owner desires to address the needs of the community by providing a viable residential village that will be part of a greater mixed-use neighborhood. Owner has bifurcated the Property into Parcel A and Parcel B to include both rental and for-sale housing, which will each be separately processed through the RDCS process. The adjacent property owners (of the real property to the north of the Property) prefer to maintain commercial zoning on their property (the "Northern Property"). Owner hopes to plan for the coordinated development of the Property and the Northern Property through the PD process. The Owner will bear the entire costs of the PD overlay. The Owner agrees that all applications to develop the property will include the below mentioned attributes:
 - i. Commercial Component. The Owner will provide at least 10,000 square feet of commercial space within the Property as long as it complies with the PD overlay and General Plan. The majority of the commercial uses will be located on the 13 acre Northern Property located closest to Dunne Avenue. In addition, the Owner will make its commercially best effort to acquire and or develop the Northern Property and the Property in unison.
 - ii. Residential Component.
 - 1. The south portion of the Property will include up to 220 units of multifamily residential apartments units; and will include up to 100 units of for-sale townhouse units.
 - 2. Within the residential component of the Property, Owner will provide a walkable community, with tree lined streets and parks for both an aesthetic and utility purpose, as the trees will buffer light and noise. The majority of the homes will have front doors oriented toward the streets.
 - 3. The east half of the residential component of the Property will be developed with attached or detached housing (i.e., townhomes or row homes) consistent with the City's Multi-Family Low General Plan land use designation.

4. The west half of the residential component of the Property will be developed with multi-family residential rental housing consistent with the City's Multi-Family Medium General Plan land use designation contingent upon approval of the General Plan Amendment by the City in 2015, and the establishment of a set aside category for large Multi-Family rental housing and allotment of units for the project within the 2015 Measure C process.
5. The entire southern border of the residential component of the Property will consist of a linear green belt, providing community resources within the developed Property such as a children's play area, demonstration garden, picnic benches, and/or other similar uses. The actual uses will be determined during the planning process.
6. A total of at least 165 parking spaces will be provided along San Pedro Avenue and at least __acres of land will be dedicated by the Owner to the City for this purpose.
7. The Owner will provide at least a 250 foot setback from the Sports Complex for any residential housing. All homes will be oriented and designed to allow for minimum impact from the Sports Complex lighting. This setback will be beyond the 150 feet of lighting defined within manufactures lighting leakage analysis.
8. The Owner will provide a grove of mature trees within the linear park to allow for an additional noise buffer. The trees will be fast growing, allowing maximum noise and light buffer. In addition, the linear park will be designed with noise whiting features such as a water fountain.
9. The Owner will develop the project on the Property utilizing high quality architectural and site planning design practices, consistent with the City's General Plan and Architectural Review Handbook and any other design guidelines in effect at the time of development. The overall site plan will facilitate pedestrian, bicycle and vehicle movement through the site and to adjacent land uses.
10. In the case that development of the Residential Component on the Property precedes the development of the commercial [component,component](#); the Owner shall as part of the residential development construct a street along the northern edge of the Property consistent with City street design standards. Concurrently, the Owner shall also construct a street, consistent with City street design standards, between Parcel A and Parcel B.

2. Submittal of Applications. Owner, their agents or successors in interest shall submit to City on City's standard application forms, applications with all supplementary information, fees, and documents required by the City to process the same, for the developments described in Section 1 above.
3. Processing Costs. Owner shall pay City regarding submittal of any applications, the costs customarily charged by the City for processing such applications, including the cost for environmental review.
4. Development Agreement. A development agreement pursuant to Government Code Section 65864 *et seq.*, with an anticipated term of approximately 10 years would be prepared and executed in connection with any development approvals granted by City for the Property. It is further anticipated that the development agreement would comply with applicable state and local law and be in general accord with the terms contained in this MOU, as well as contain other such terms as are agreed upon by the parties to the agreement.
5. Limitations. This MOU requires the City to process and take future action on development requests for which completed applications have been submitted relating to the Property. The parties acknowledge and agree that execution of this MOU by the City does not alter the application of CEQA to development of the Property, nor alter the discretion of the City, the City Council, the City Planning Commission, or any department, agency, employee, or instrumentality of the City to determine whether to enact the ordinances, adopt resolutions, or grant the entitlements required to accomplish any of the actions set forth in Section 1, or to make any of the findings required in order to do so. By entering into this MOU, neither Owner nor City shall obtain from each other any right or entitlement, nor shall either obtain from the other any expectancy other than as specifically set forth herein. This MOU is a non-binding understanding between the parties, and is intended only to show the parties' good faith moving forward in connection with the subject matters described herein.
6. Termination. This MOU shall terminate if and when a development agreement as described in Section 4 above is effective in connection with all development contemplated in Section 1 above or may be terminated by the City or the Owner upon 60 days' prior written notice to the other. Any effective development agreement between Owner and City in connection with the Property shall supersede and terminate the terms and provisions of this MOU.
7. Assignment. This MOU is assignable by the Owner to any successor in interest.
8. Notices. Any notice to be served on the City shall be served upon it at City Hall, 17555 Peak Avenue, Morgan Hill, California 95037. Any notice to be served upon Owner shall

be served upon them c/o Orville Power at 5927 Balfour Court, Suite 208, Carlsbad, California 92008.

9. Authority. Each person signing this MOU on behalf of an entity represents that he or she is authorized to execute this MOU on behalf of such entity.

CITY:

City of Morgan Hill, a municipal
Corporation

By: _____
Mayor

Attest

By: _____
City Clerk

Approved as to Form:

By: _____
City Attorney

OWNER:

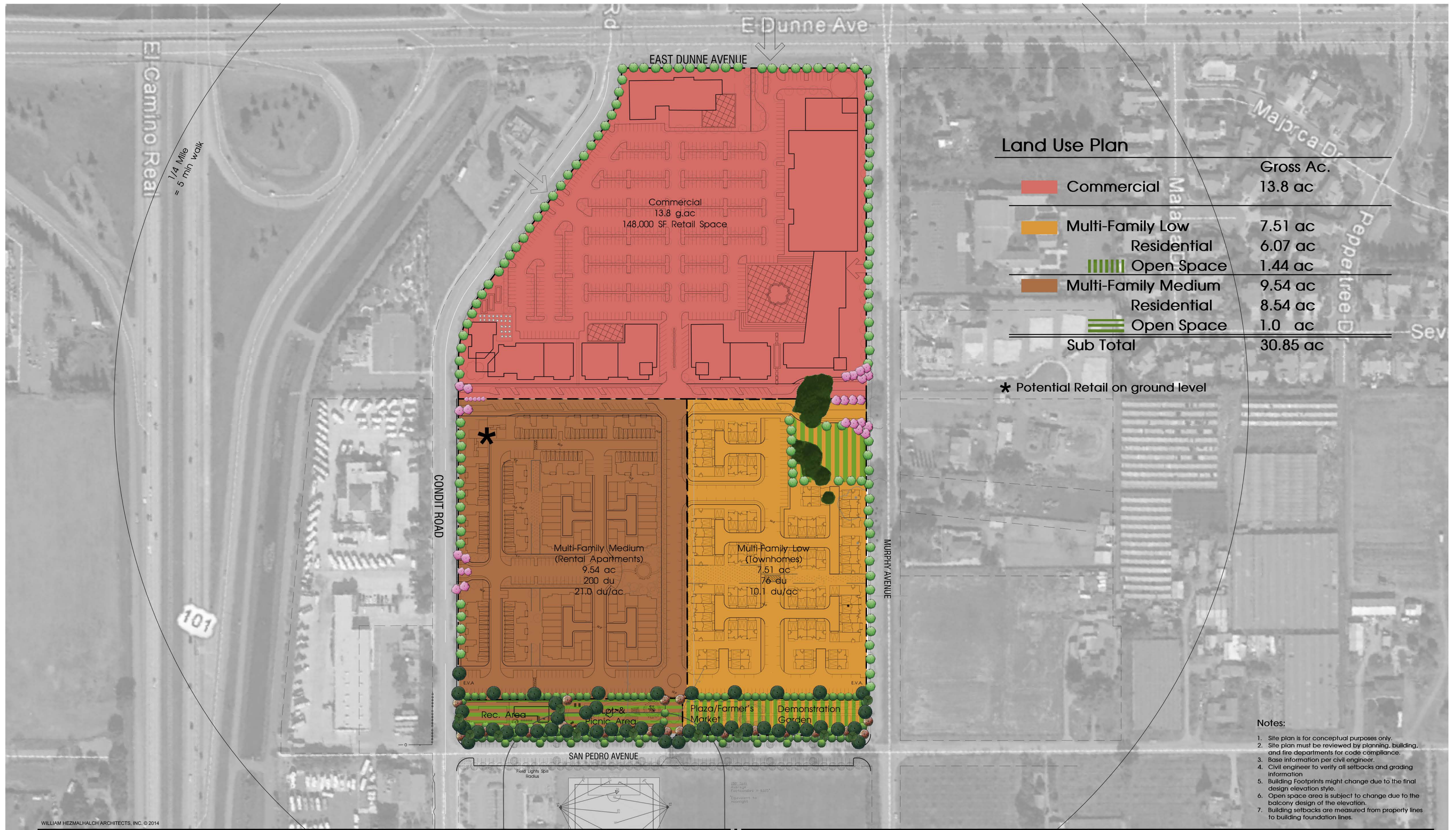
Presidio Evergreen, LLC, a Delaware
limited liability company

By: Mana Evergreen, LLC, a California
limited liability company, its Authorized
Member

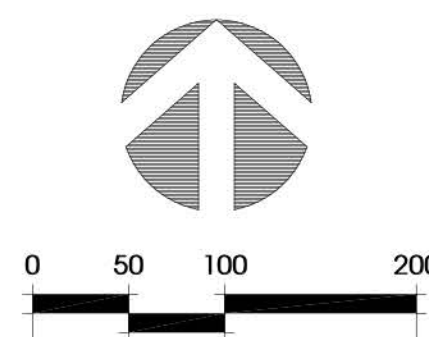
By: Mana Investments, Inc., a
California corporation, its Managing
Member

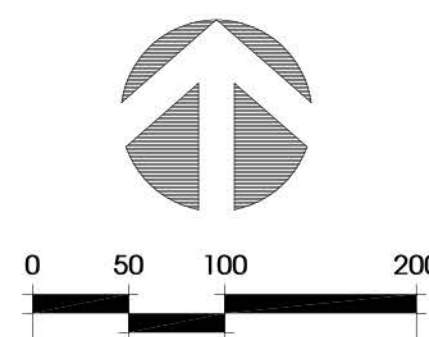
By: _____
Orville Power,
CEO

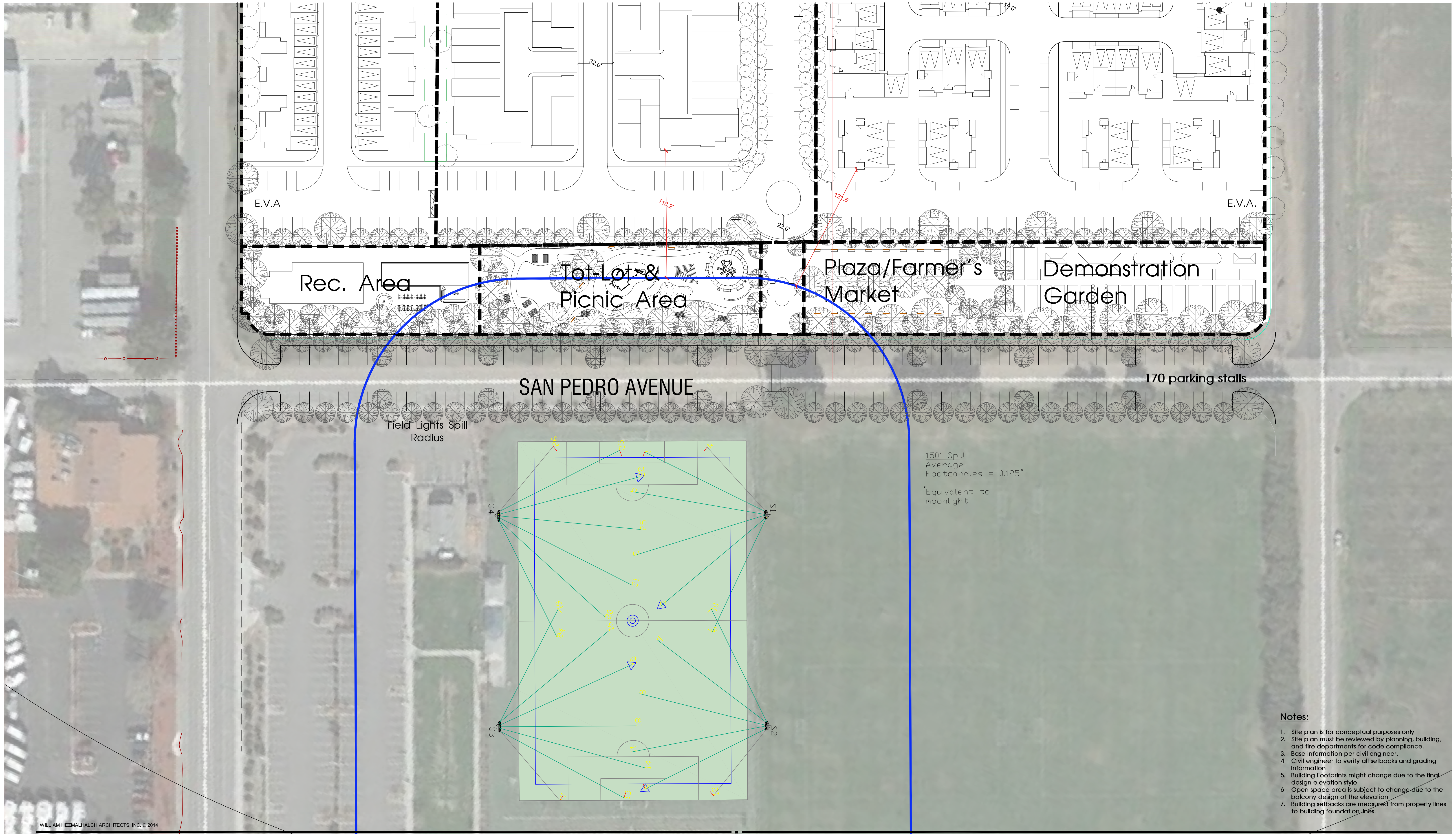
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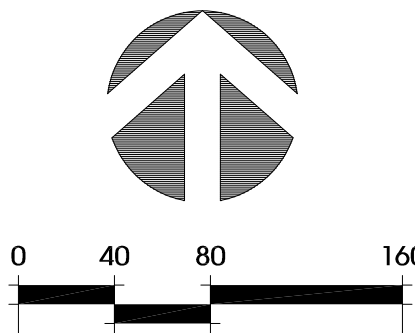
Conceptual Land Use Plan Dunne Avenue Mixed Use Morgan Hill, CA







WILLIAM HEZMALHALCH ARCHITECTS, INC. © 2014



Conceptual Technical Plan Dunne Avenue Mixed Use Morgan Hill, CA

**WILLIAM HEZMALHALCH
ARCHITECTS, INC.**
2850 REDHILL AVENUE, SUITE 200, SANTA ANA, CA 92705-5543
949 250 0607 www.wharchitects.com fax 949 250 1529
2014414 12-02-14

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RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING THE CITY COUNCIL APPROVE A REQUEST TO AMEND THE GENERAL PLAN LAND USE DESIGNATION OF A 18.18-ACRE SITE LOCATED AT THE NORTHEAST CORNER OF CONDIT ROAD AND SAN PEDRO AVENUE FROM GENERAL COMMERCIAL TO MULTI-FAMILY MEDIUM (14-21 DU/AC) (APN 817-12-006) AND MULTI-FAMILY LOW (5-14 DU/AC) (APN 817-12-009)

WHEREAS, the applicant's request to amend the General Plan Land Use Designation from General Commercial to Multi-Family Medium (14-21 du/ac) and Multi-Family Low (5-14 du/ac) for the subject site was considered by the Planning Commission at their regular meetings of November 18, 2014, and January 13, 2015, and

WHEREAS, at which time the Planning Commission recommended the City Council approve the General Plan Amendment application as shown on the attached map GPA-13-01: Condit-Evergreen; 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; and

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

SECTION 1. The General Plan Amendment, as recommended by staff, is consistent with the provisions of the General Plan.

SECTION 2. The Planning Commission of the City of Morgan Hill finds on the basis of the whole record before it, including the environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), that that the Environmental Impact Report (EIR) prepared reflects the Planning Commission's independent judgment and analysis and should be certified by the City Council.

SECTION 3. The EIR identifies the potential for significant effects on the environment from development of the Project, not all of which can be substantially reduced through implementation of mitigation measures; therefore, approval of the Project must include findings regarding mitigation measures, alternatives.

SECTION 4. Some of the significant effects identified in the EIR cannot be lessened to a level of less than significant; therefore, approval of the Project must include a Statement of Overriding Considerations.

SECTION 5. The site is suitable for of urban development and public infrastructure is available.

SECTION 6. The project is consistent with the Morgan Hill General Plan regarding the Incompatible Uses Goal 6, Policies 6b and 6c:

Goal 6. Avoidance of incompatible land uses and conflicting activities.

Policy 6b. Encourage the clustering of residential units to provide open space and recreation areas, and to provide buffer areas between different land uses (e.g., industrial and residential).

Policy 6c. Evaluate potential impacts of development projects on adjacent uses in initial environmental assessments and EIRs.

The project is consistent with Goal 6, Policy 6b, and Policy 6c. Amending the General Plan to allow residential development on the project site has the potential for compatibility issues between future residences and surrounding commercial uses (both existing and future) are likely to occur due to truck and traffic activity, noise, lighting, smells, and the over flow parking associated with the adjacent recreational uses.

However, the proposed site plan includes a linear amenity zone area along San Pedro Avenue, which is directly opposite from the Morgan Hill Outdoor Sports Center. The extent of the sports field lighting is contained within this area and will not spill over into the proposed residential development area.

An Environmental Impact Report was completed for this project that analyzes and describes potential impacts on the physical environment as it relates to the project and therefore the project is consistent with Policy 6c.

SECTION 7. The project is consistent with the Morgan Hill General Plan regarding the Residential Development Goal 7, Policies 7d, 7e, and 7i:

The project is consistent with Goal 7, Policies 7d, 7e, and 7i. The project proposes both apartment and for-sale housing products (200 and 76 dwelling units respectively), which would facilitate the housing needs of various incomes and socio-economic situations. The project site is near US 101 and East Dunne Avenue, which are major thoroughfares within the City providing local and regional access. Shopping exists nearby; however, the project proposes some commercial within the project site and also proposes to actively seek acquiring the adjacent property to development additional commercial services.

SECTION 8. The Planning Commission hereby recommends City Council approval of the General Plan Amendment as shown in the attached Exhibit 'A'.

PASSED AND ADOPTED THIS 13th DAY OF JANUARY 2015, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

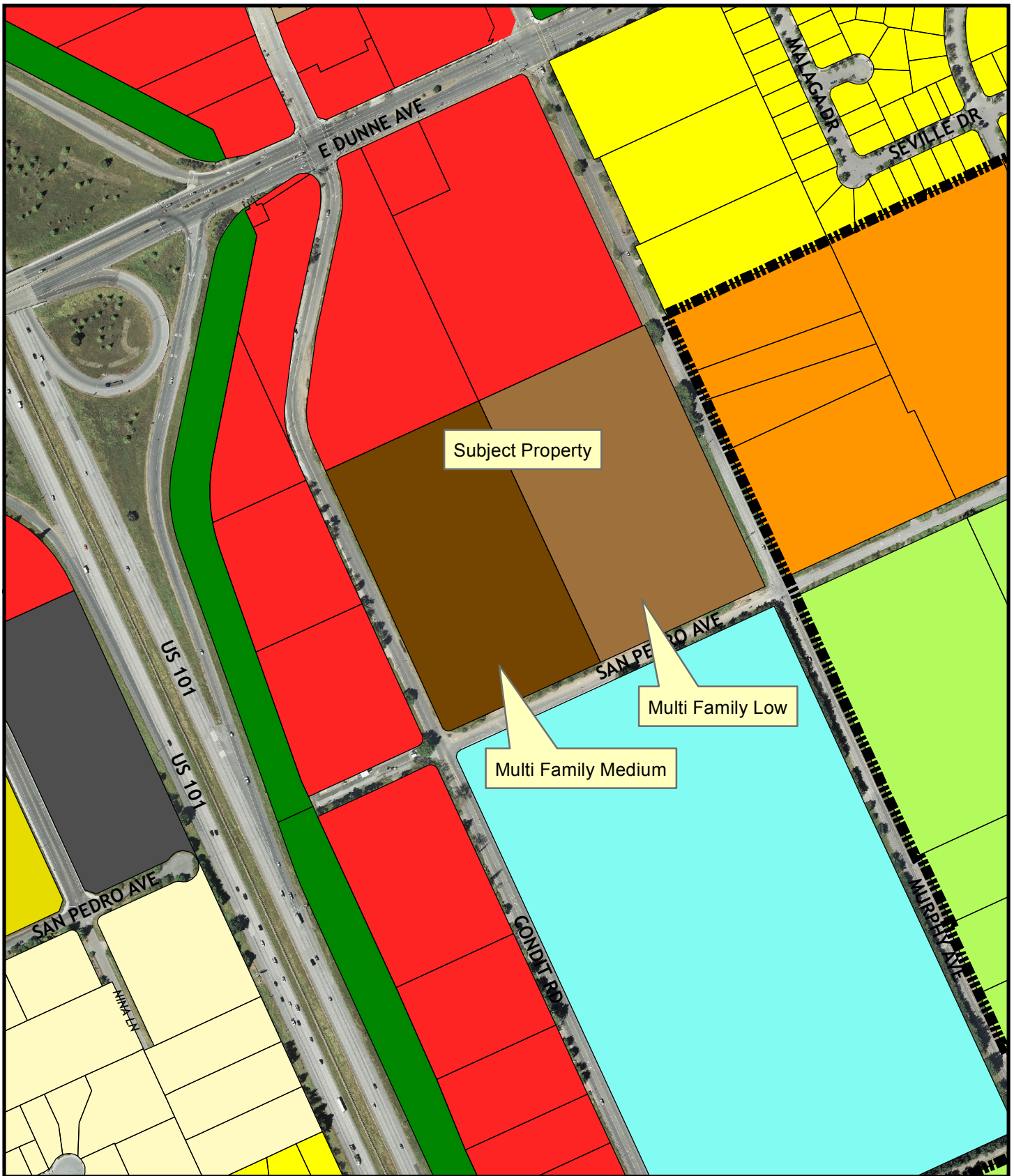
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

TERESA CRUE, Deputy City Clerk

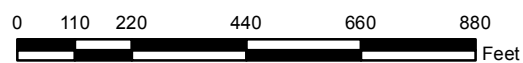
RENE SPRING, Chair



General Plan Land Uses

■ Commercial	■ Public Facilities
■ Multi-Family Low	■ Rural County
■ Multi-Family Medium	■ Residential Estate
■ Office Industrial	■ Single Family High
■ Open Space	■ Single Family Low
	■ Single Family Medium

**Condit - Evergreen
Proposed General Plan Amendment**



Teresa Crue

From: Scott Zimmer [scott@the-zimmers.net]
Sent: Sunday, November 09, 2014 12:23 PM
To: Planning_Commission
Cc: linda@zimmer-realty.com
Subject: Planning Discussion regarding Condit Evergreen Proposal

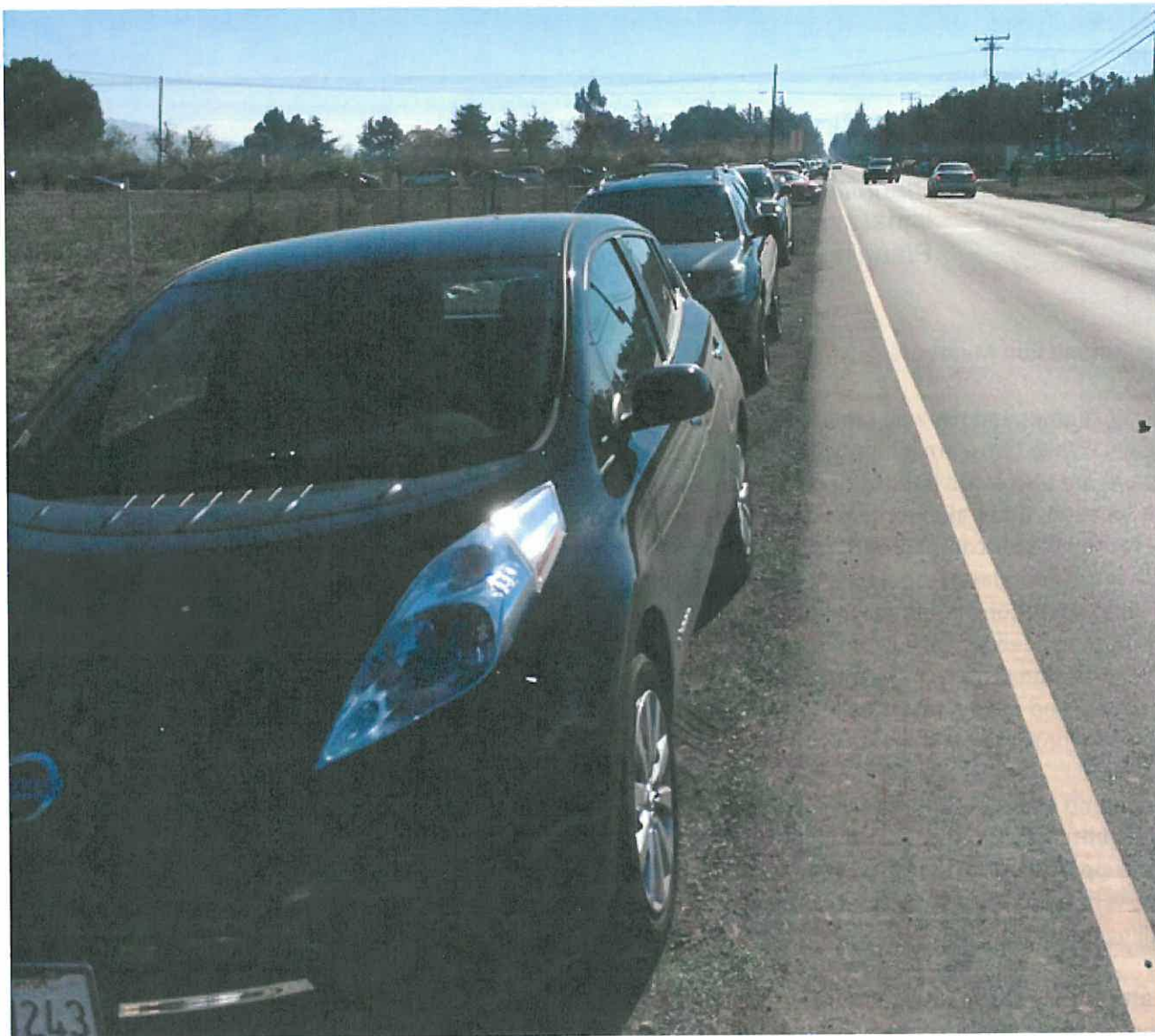
Hello Planning Commission Members,

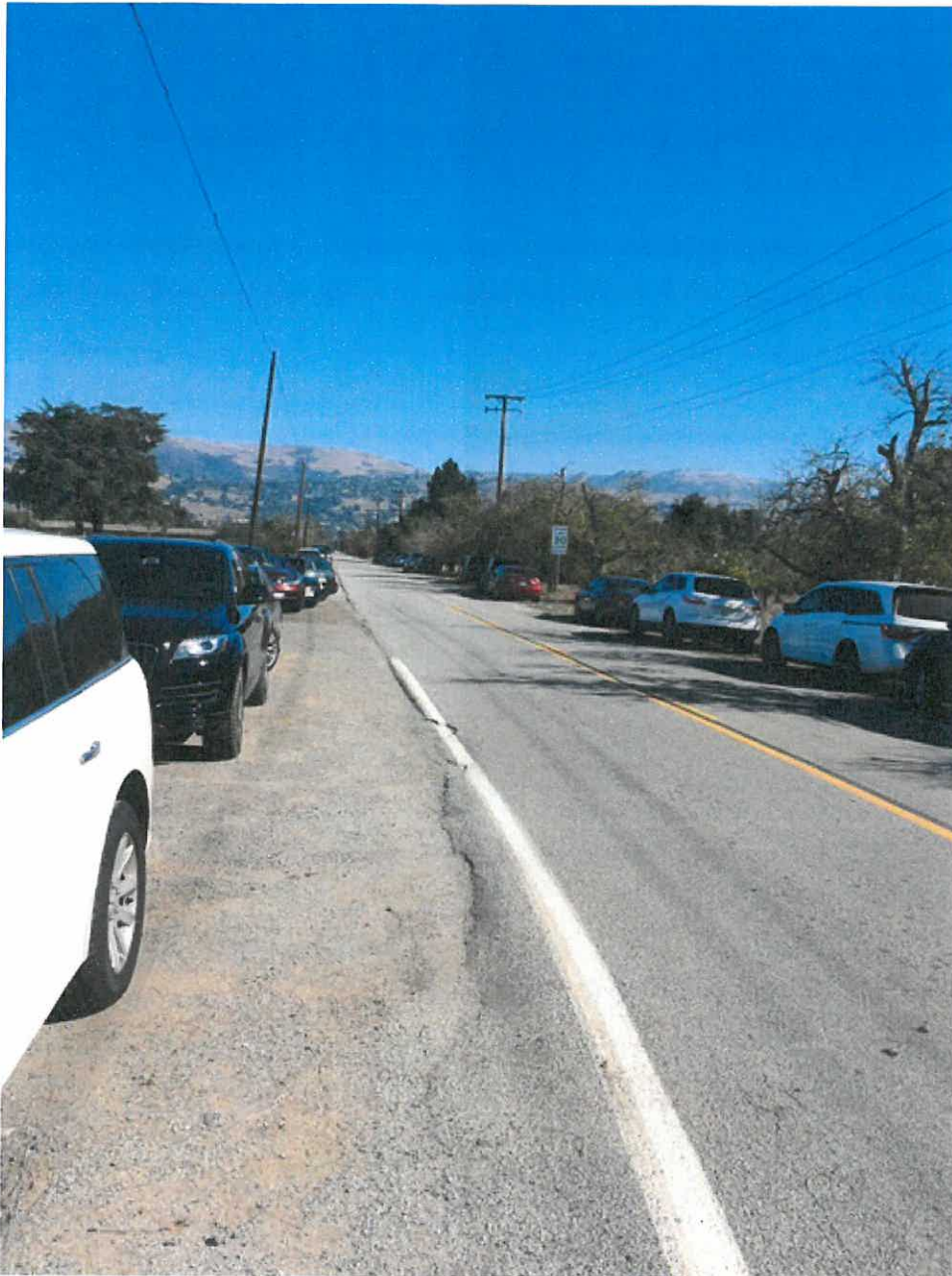
My name is Scott Zimmer and my wife (and two son's) have resided on Murphy (across from this proposed change) for the past 18 years. While there are a number of very positive development activities which could enhance our community, there are also some important considerations. While we do not specifically oppose the development of housing in this location, there already some issues which will be made worse if you consume the last remaining open land available for the soccer complex and its needs. For example, as you can see from the photos below, the current infrastructure cannot adequately support the parking overflow on many weekend events being held at the soccer complex. The land being considered for this zoning change could be used to address some of these current limitations while building more residences without consideration for this already over-subscribed complex will only make this situation worse. Additionally, given the amount of honking, tire screeching, etc. I suspect the police should have some number of accidents and events recorded relating to the parade of cars entering and leaving these events. Without some consideration for resolving things, it is only a matter of time for a real problem to develop.

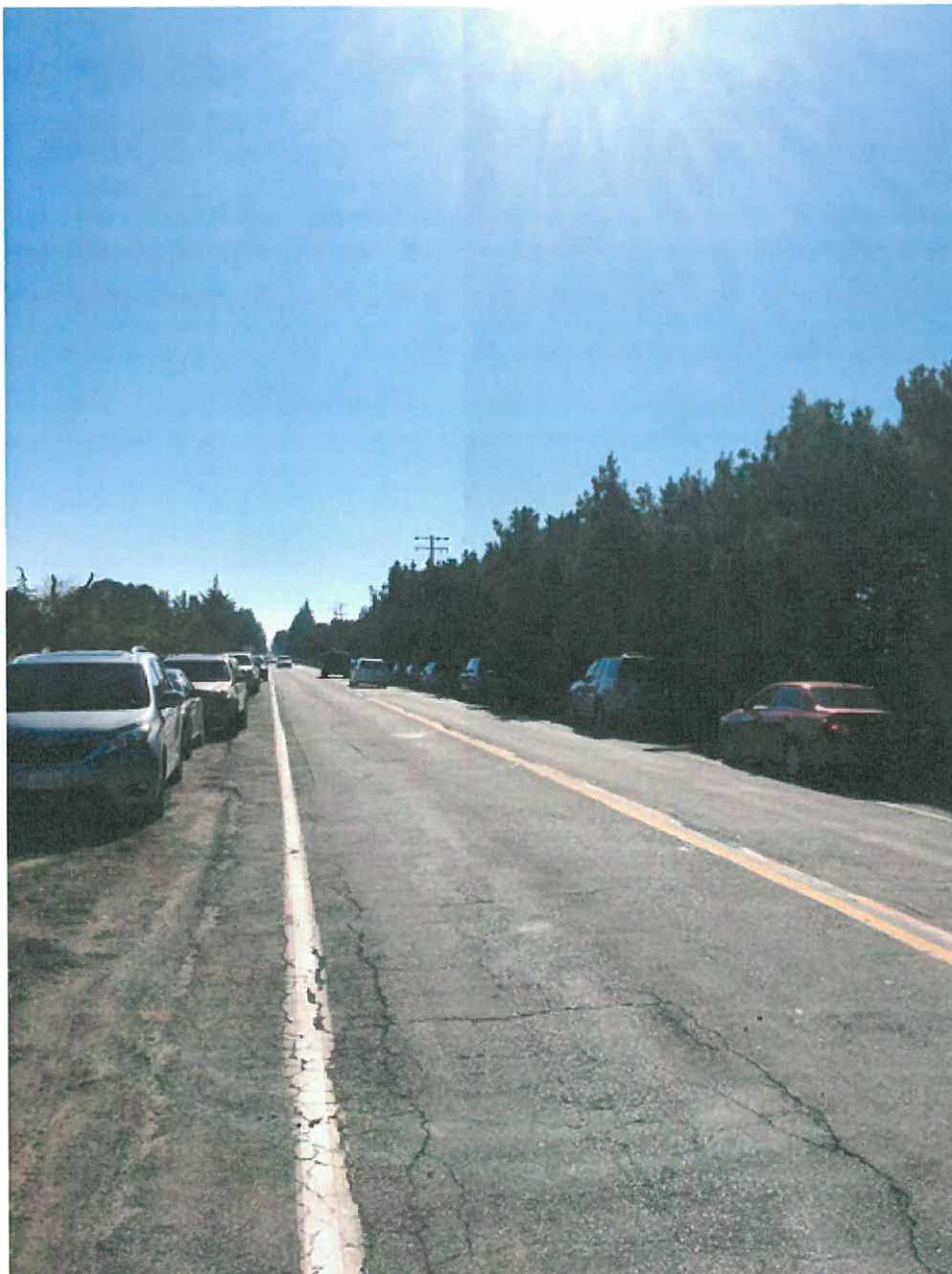
I would suggest some consideration for the following: a) some portion of the proposed land should be designated to relieve the over-subscription of the soccer complex (or another adjacent property potentially) b) some enhancement to condit road to support the in/out traffic to the complex c) some consideration for a 4-way stop sign at San Pedro/Murphy as numerous serious accidents have happened at this intersection due to Murphy high speed and San Pedro cars pulling out blindly

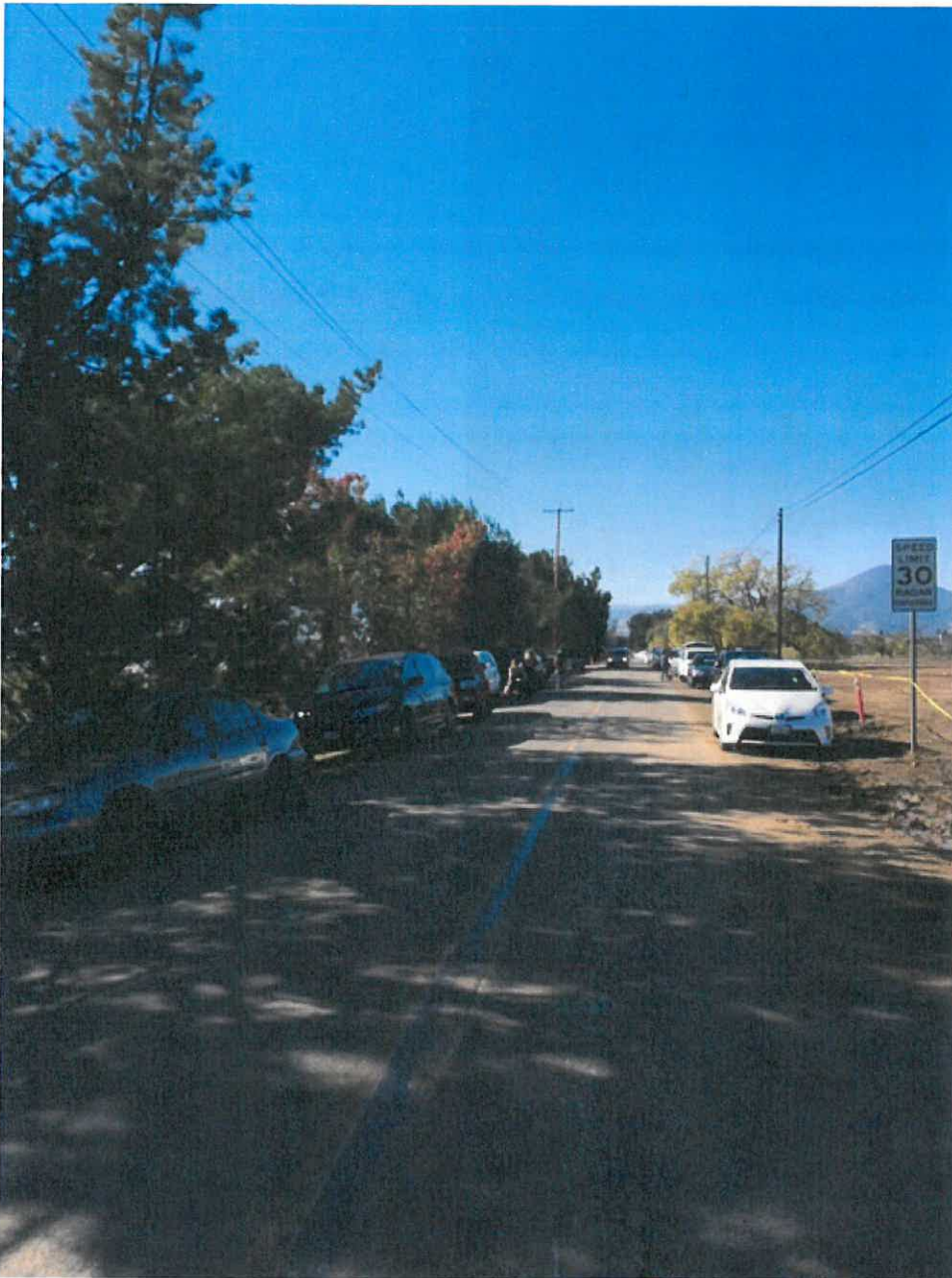
We will be in attendance at the meetings and welcome any/all discussions. Our comments are meant to share our perspectives not to resist positive community change.

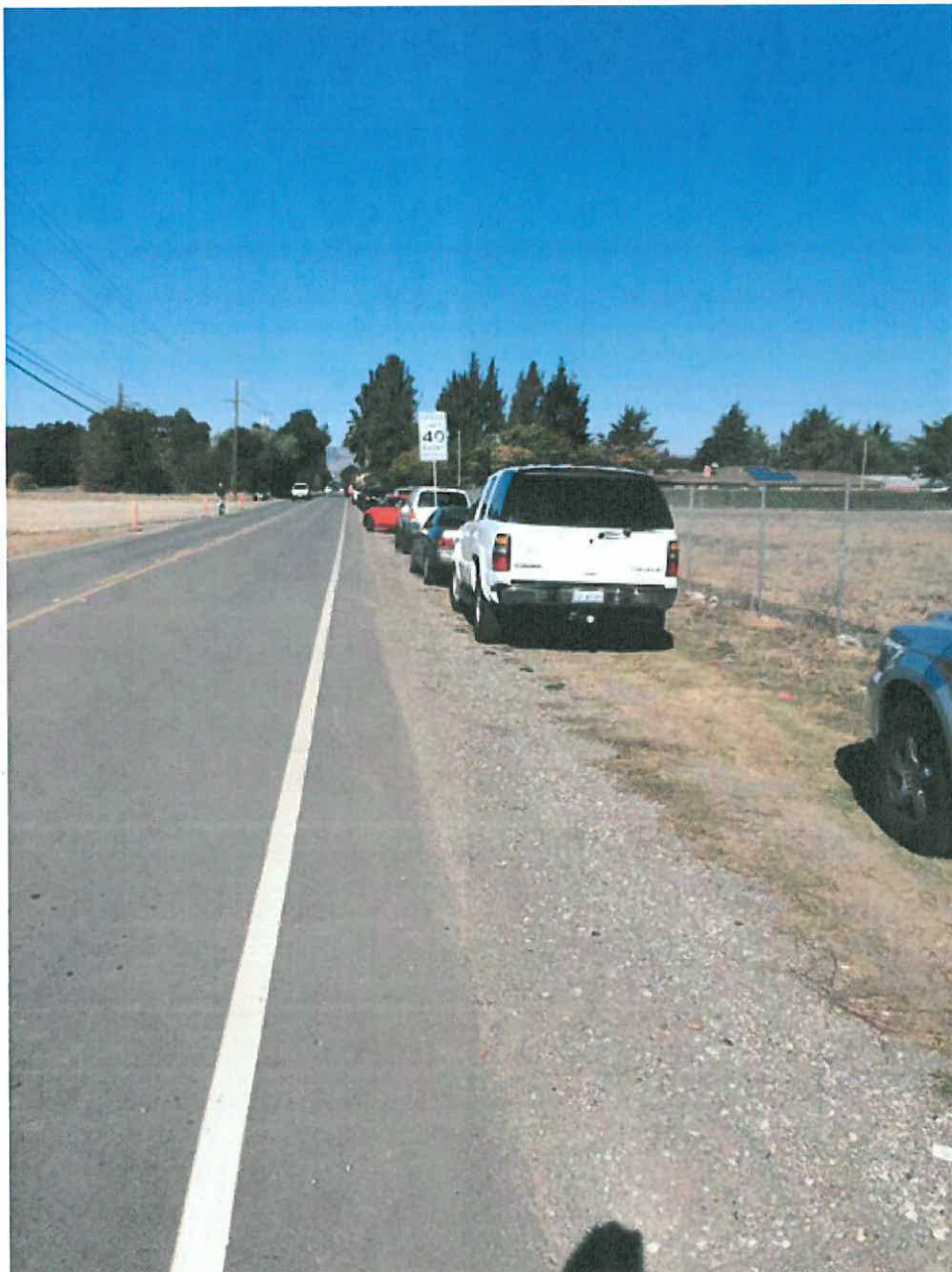
Regards,
Scott and Linda Zimmer
16770 Murphy Ave

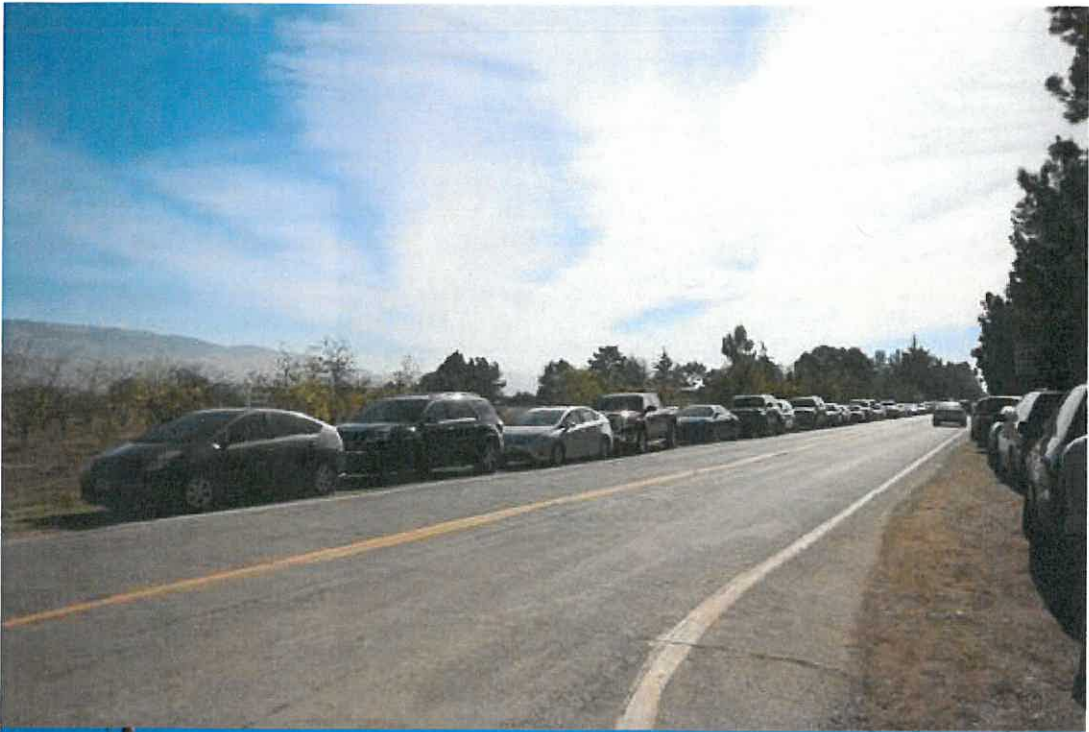






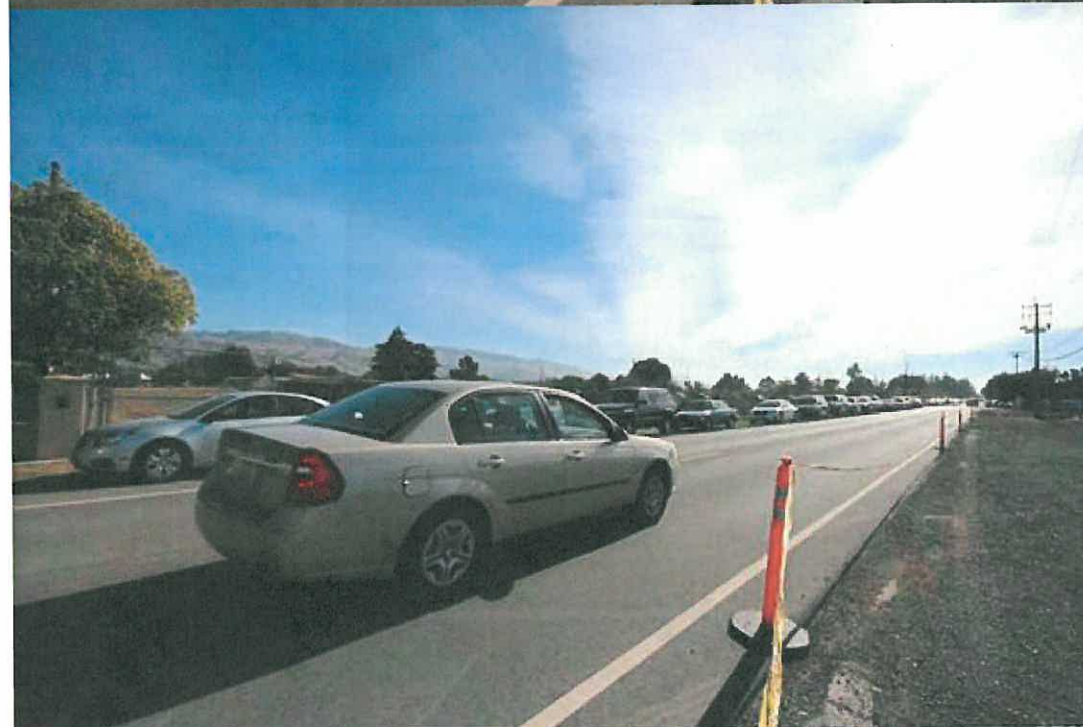














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RESOLUTION NO.

**A RESOLUTION OF THE PLANNING
COMMISSION OF THE CITY OF MORGAN HILL
RECOMMENDING THAT THE CITY COUNCIL
CERTIFY THE FINAL ENVIRONMENTAL IMPACT
REPORT FOR THE CONDIT-EVERGREEN
GENERAL PLAN AND ZONING AMENDMENT
PROJECT AND A STATEMENT OF OVERRIDING
CONSIDERATIONS REGARDING
ENVIRONMENTAL IMPACTS**

WHEREAS, an Environmental Impact Report (EIR) (SCH Number 2014062078) was prepared for the Project in accordance with the California Environmental Quality Act (CEQA). A Notice of Preparation (NOP) was circulated between June 24, 2014 and July 23, 2014 to receive comments regarding the scope and content of the EIR. A public scoping meeting was held on July 14, 2014 to receive oral comments on the NOP. The Draft EIR was circulated between August 26, 2014 and October 9, 2014; and

WHEREAS, the City received comments on the Draft EIR by three individuals/organizations. Responses to those comments and minor changes to the Draft EIR were included in a Final EIR document; and

WHEREAS, the information contained in the Final EIR, consisting of the Draft EIR document in combination with the Final EIR document, was reviewed and considered by the Planning Commission at a duly-noticed Planning Commission public hearing held on January 13, 2015; and the Planning Commission took action to recommend to the City Council that the Final EIR be certified as being found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act; and

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1: FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE CONDIT-EVERGREEN GENERAL PLAN AND ZONING AMENDMENT PROJECT:
The Planning Commission hereby recommends that the City Council find, determine and declare the findings and facts and statement of overriding considerations as set forth in the attached Exhibit "A" by this reference incorporated herein.

SECTION 2: CERTIFICATION OF FINAL EIR: The Planning Commission recommends that the City Council hereby certify that the Final EIR has been completed in compliance with CEQA; that the Final EIR was presented and the Council has reviewed and considered the information prior to approving the project; and the Final EIR reflects the independent judgment and analysis of the City of Morgan Hill, as lead agency.

PASSED AND ADOPTED THIS 13th DAY OF JANUARY 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

RENE SPRING, Chair

EXHIBIT "A"

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE CONDIT-EVERGREEN GENERAL PLAN AND ZONING AMENDMENT

This document presents findings in accordance with Sections 15091 and 15093 of the California Environmental Quality Act ("CEQA") Guidelines and Section 21081 of the Public Resources Code. Under CEQA, the City of Morgan Hill ("the City") must prepare written findings of fact for each potentially significant adverse environmental effect identified in a final environmental impact report and explain whether the project has been changed to avoid or substantially reduce the magnitude of the impact. The findings must describe specific reasons for rejecting identified mitigation measures and project alternatives. CEQA also requires that the City identifies when the responsibility for avoiding or reducing a significant environmental effect belongs to another agency. In some cases, the City can make a Statement of Overriding Considerations when specific economic, legal, social, technological, or other considerations are identified that make avoidance or reduction of the significant environmental effects infeasible.

According to Section 21081 of the California Public Resources Code, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (A) The public agency makes one or more of the following findings with respect to each significant effect:
 - (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
 - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR
- (B) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (A), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

These Findings concern the Final Environmental Impact Report (EIR), prepared by the City, entitled "Final Environmental Impact, Condit-Evergreen General Plan and Zoning Amendment Project." This document was prepared to satisfy the City's responsibilities under CEQA.

The City Council hereby finds, determines and declares as follows:

I. BACKGROUND

A. Project Description

In 2013, a GPA application was filed requesting a *Mixed-Use* designation for the project site. In 2014, the GPA application was changed to request the currently proposed *Multi-Family Medium (14- 21 du/ac)* General Plan designation. The currently proposed project also requests an *R3 Medium Density Residential* rezoning [GPA-13-02/ZA-14-16]. The proposed project will allow higher-density residential development on the project site than was analyzed in 2011.

The 18.18-acre rectangular project site is located in the City of Morgan Hill approximately 580 feet east of US 101 (APNs 817-12-006 and 817-12-009). The site is bounded by vacant land to the north, Murphy Road to the east, San Pedro Avenue to the south and Condit Road to the west. North of the vacant land is East Dunne Avenue and commercial development, east of Murphy Avenue is single-family residential development, south of San Pedro Avenue are recreational sports fields, and west of Condit Road is commercial development situated adjacent to US 101.

The project site is currently designated Commercial in the City's General Plan. This designation is primarily given to properties located along arterial roadways west of US 101 and along the eastern freeway frontage. This designation is intended to allow a wide range of retail businesses, office uses and professional services. The largest concentrations of Commercial designated properties are found along Monterey Road and at the freeway interchanges where retail stores are emphasized.

The site is zoned *CG-General Commercial*. According to the Morgan Hill Zoning Code, Section 18.22.010, the CG zoning is intended to create and maintain major commercial areas accommodating a broad range of office, retail, sales, and other commercial activities of community-wide significance. The CG zoning is applied to community commercial areas identified in the City of Morgan Hill General Plan and other areas where appropriate.

The proposed project is a General Plan Amendment (GPA) to change the land use designation at the project site from *Commercial* to *Multi-Family Medium (14-21 du/ac)*, as shown in Figure 3. Based on the proposed General Plan designation of 14 to 21 du/ac, future development of the site could include between 254 and 381 residential units. Analyses in this EIR assumes maximum build-out of the 18.18-acre site with 381 residential units which equates to approximately 1,193 future residents.

According to the City's General Plan, Multi-family Medium development is frequently found near commercial areas that in part serve the adjacent residents. The General Plan states that this designation accommodates up to 21 dwelling units per acre, most of which are attached apartments or condominiums.

The project proposes to rezone the site to R-3 which allows several types of residential development including multifamily, duplex, and/or single-family attached residences with

minimum lot areas of 6,000 square feet (sf), or 4,500 sf for corner lots. The minimum site area per dwelling unit in the *R-3* zone is 2,000 sf.

According to the Morgan Hill Zoning Code, Section 18.16.010, the *R-3 Medium Density Residential District* is meant to stabilize and protect the residential character of neighborhoods, and to promote a suitable environment for family and adult communities in a higher density environment than other residential zoning categories would allow.

The City has Municipal Code restrictions and General Plan provisions which concern residential re-designation of non-residential parcels that were annexed into the City after 1990. Section 18.62.070 Part C of the Municipal Code stipulates that non-residential designated properties annexed by the City after 1990 may not be re-designated to a residential use unless the amount of undeveloped, residentially developable land on the same side of Monterey Road as the proposed GPA is insufficient to accommodate five years' worth of residential growth. Furthermore, Council Policy 94-02 States that commercial or industrial properties may be added to the Urban Service Area but "shall not be eligible for conversion to residential use except as provided by Section 18.62.070."

According to the Morgan Hill Housing Element (2015-2023), there are 198 vacant acres suitable for residential development on the east side of Monterey Road which could accommodate up to 1,374 dwelling units. Given that the RDCS allots 250 dwelling units per year, there is a supply of residentially developable land on the east side of Monterey Road which can accommodate up to 5½ years' worth of residential growth, assuming all 250 of the yearly allotments for new residential development are awarded to properties on the east side of Monterey Road. If only half of the yearly 250 allotments are awarded to properties on the east side of Monterey Road, then there would be closer to ten years' worth of residential growth available on the east side of Monterey Road.

Infill exceptions to the above-described Municipal Code policies and General Plan provisions may be granted if a project meets certain criteria for desirable infill, as outlined the Municipal Code, Section 18.78.070 (for a detailed discussion see Section 2.1, *Land Use*). The project meets the criteria for desirable infill. A Development Agreement is proposed between the City and property owner which will require future residential development on the project site to include street improvements along San Pedro Avenue. The Development Agreement will require dedication of 16-feet of ROW added to the existing 60-foot ROW on San Pedro Avenue between Condit Road and Murphy Avenue. The overall 76-foot ROW will accommodate development of perpendicular street parking, a two-foot curb overhang, and sidewalks and landscaping on both sides of San Pedro Avenue along the project frontage between Condit Road and Murphy Avenue.

B. Project Objectives

1. Propose a change to the City's General Plan land use designation and Zoning District for the project site to ultimately:

- a) Develop a residential project that is economically feasible and is consistent with the City's Measure C provisions.
- b) Provide housing to accommodate forecasted population growth within Morgan Hill.
- c) Provide an appropriate mix of housing types that will satisfy demand among various community segments.
- d) Provide much needed housing for new workers at local jobs.
- e) Help attract valued employers.
- f) Diversify the current stock of market-rate rental housing, thereby increasing rental rate competition and encouraging renovation of existing inventory.
- g) Transition accordingly from the adjacently zoned PD parcels to the north to encourage walkable retail.

C. THE FINAL EIR

1. The City as lead agency for the Project has caused to be prepared a Final EIR for the proposed Project, based on the requirements of the California Environmental Quality Act (Public Resources Code §§ 21000-21177) and the CEQA Guidelines (Sections 15000-15387, Administrative Code, Title 14, Chapter 3).. Pursuant to state CEQA Guidelines Section 15132, the Final EIR (EIR) consists of the following documents and materials: The "Draft Environmental Impact Report, Condit-Evergreen General Plan and Zoning Amendment Project", issued in August 2014; and the "Final Environmental Impact Report, Condit-Evergreen General Plan and Zoning Amendment Project", issued in November 2014, which includes the comments on the Draft EIR and the City's responses thereto, as well as certain revisions to the text of the Draft EIR.

2. Copies of the Final EIR are on file in the City's library and, along with the planning and other City records, minutes and files constituting the record of proceedings, are incorporated herein by this reference. The City Council designates the City Clerk of the City of Morgan Hill, 17555 Peak Avenue, Morgan Hill, CA 95037, as the custodian of documents and record of proceedings on which the decision was based. Since the text of the Draft EIR was revised in certain aspects in the Final EIR, references in these Findings to specific pages of the EIR will be to the starting page of the Draft EIR where the topic is addressed, with the revisions in the Final EIR assumed by such references.

3. A Notice of Preparation of the EIR was sent on June 24, 2014 to responsible agencies and the State Clearinghouse in the Office of Planning and Research, requesting comments on the scope and content of the EIR, and comments were received from the County of Santa Clara Department of Environmental Health, the Santa Clara Valley Water District, and the Santa Clara Valley Transportation Authority.

4. The Draft EIR was circulated for the required 45-day public review and comment period on August 26, 2014 through October 9, 2014.

5. The Final EIR issued in November 2014 contains the responses to the public and agency comments received regarding the Draft EIR, and reflects revisions to the Draft EIR in response to those comments. Section 4 of the Final EIR shows by underlining and strikeouts where portions of the Draft EIR were modified.

6. On January 13, 2015, the City of Morgan Hill Planning Commission conducted a duly-noticed public hearing for the purpose of reviewing and considering the information contained in the Final EIR, and for developing its recommendation to the City Council regarding the proposed Project and certification of the Final EIR. The Planning Commission recommended certification of the Final EIR.

7. On _____ the City Council conducted a duly-noticed public hearing for the purpose of reviewing and considering the information contained in the EIR and the administrative record, and for the purpose of considering the proposed Project.

8. When it adopts a Resolution approving the Project, the City Council will also approve the Mitigation Monitoring and Reporting Program (MMRP) pursuant to Public Resources Code section 21081.6, which MMRP is designed to ensure compliance with Project changes and mitigation measures imposed to avoid or substantially lessen the environmental effects identified in the Final EIR, and which MMRP is also adopted in conjunction with adoption of this Resolution.

9. The City Council has reviewed and considered the information contained in the Final EIR and record of proceedings, including, but not limited to, staff reports, oral and written comments given at public hearings on the proposed Project or otherwise received by the City, the responses thereto contained in the Final EIR, the additional information presented to the Planning Commission and its recommendations, and the final revisions to the proposed Project as reflected in the November 2014 proposed Condit-Evergreen General Plan and Zoning Amendment Project, and the final versions of the resolution and ordinance presented for adoption in order to achieve the proposed Project. All other matters deemed material and relevant have also been considered by the City Council before considering the proposed Project for approval. The Final EIR reflects the independent judgment of the City.

II. SIGNIFICANT IMPACTS WHICH CAN BE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

A. General Findings. The proposed Project was considered to have potentially significant impacts on transportation, noise, air quality (regional project impacts and construction), aesthetics, biological, cultural, geological, hydrology and hazardous materials. Potentially significant impacts were also identified in the EIR for cumulative transportation and cumulative biological resources impacts. Certain transportation impacts are considered significant and unavoidable; the other impacts can be reduced to a less than significant level with mitigation measures incorporated into the Project and to be required of subsequent projects. The City Council

finds that, in response to each significant effect identified in the EIR and listed in this Section II, all feasible changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen these environmental effects, except for the identified transportation and resources impacts (for which a Statement of Overriding Considerations is made in Section V below). With implementation of the proposed mitigation measures described in the Final EIR and MMRP, and presented below, the proposed Project is determined to have less-than-significant impacts on these resources, except as noted above. All of these mitigation measures shall be deemed adopted as part of the City Council's approval of the Project and certification of the Final EIR.

B. Findings for Each Potentially Significant Impact. The City Council hereby makes the following findings for each potentially significant impact of the proposed Project that can be reduced to a less- than-significant level, as presented below.

1. **Impact NOI-1:** Interior noise exposures at future residential dwelling units adjacent to Condit Road and Murphy Avenue could exceed the City of Morgan Hill Noise Element and Title 24 standards due to traffic noise. Interior noise levels at dwelling units located along San Pedro Avenue could be exposed to exterior noise levels of 60 dBA DNL or greater, which would require interior noise exposure protection for maximum instantaneous noise events.

MM NOI-1: Interior Noise. Prior to the issuance of development permits for any residential project, a detailed acoustical analysis, in conformance with California Noise Insulation Standards in Title 24, Part 2 of the California Code of regulations (California Building Code), will be required for final design of the proposed residential uses. The project will incorporate sound control treatments to meet an interior Ldn of 45 dBA (or 50 dBA as applicable) or less (with the windows closed), and attenuation of interior maximum instantaneous noise events to 50 dBA or less in bedrooms and 55 dBA or less in all other rooms. Noise attenuation features will be incorporated into the project design to the satisfaction of the City Building Official. **(Less Than Significant Impact)**

2. **Impact NOI-2:** Residential development on the site closest to US 101 along Condit Road and near Murphy Avenue will expose future residents to exterior noise levels in excess of noise standards established in the City of Morgan Hill's General Plan. **(Significant Impact)**

MM NOI-2: Exterior Noise. Prior to the issuance of development permits, a detailed acoustical analysis, will be required for final design of any proposed residential development. The exterior open space areas shall be designed to meet an exterior Ldn of 60 dBA or less. To achieve this, the project design could include use of the residential buildings to provide shielding for outdoor use areas including courtyards, rear yards, side yards, etc., use of earth berms, and/or increased setback distances from the roadway. The final details for these measures will be determined during development of the final site plan, prior to issuance of development permits. **(Less Than Significant Impact)**

3. **Impact NOI-3:** Future construction activities on the site could result in short term noise impacts. **(Significant Impact)**

MM NOI-3: Construction Noise. Under the Morgan Hill Municipal Code, allowed hours of construction are limited to avoid substantial impacts to sensitive receptors, such as nearby residents, as follows: 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). **(Less Than Significant Impact)**

4. Impact AQ-1: Sensitive receptors in residential dwelling units located east of the project site, and athletes using the recreational sports fields located south of the project site could be exposed to elevated levels of TACs during construction activities on the project site. **(Significant Impact)**

MM AQ-1: Temporary Toxic Air Contaminants. At the time specific development is proposed for the project site, a Community Health Risk Analysis will be prepared to evaluate and mitigate impacts from TACs generated during construction at nearby sensitive receptors to a less than significant level. **(Less Than Significant Impact)**

5. Impact AQ-2: Sensitive receptors in the vicinity of the project site, including residents of single-family residential units to the east and athletes using recreational sports fields to the south (if practices and/or events are held within the hours of construction activities from 7:00am to 8:00pm weekdays, and 9:00am to 6:00pm weekends), could be adversely affected by dust generated during construction activities. **(Significant Impact)**

MM AQ-2.1: Fugitive Dust. At the time any future specific development is considered for the site, the following measures, or equivalent measures, will be required as conditions of approval to reduce the generation of short-term construction dust. The contractor shall implement the following BAAQMD recommended Best Management Practices which are required of all projects:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. 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.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
7. 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.

8. Avoid staging construction equipment within 200 feet of existing residences or sensitive receptors.
9. Large construction equipment (i.e., over 50 horsepower) working for more than 3 days on the site shall be equipped with diesel particulate matter filters that reduce diesel particulate matter by at least 85 percent.
10. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Implementation of these BMP measures recommended by BAAQMD will reduce the air quality impacts associated with fugitive dust from grading and new construction to a less than significant. **(Less Than Significant Impact)**

MM AQ-2.2: Fugitive Dust. In accordance with the City of Morgan Hill Standard Conditions of approval, prior to issuance of a building permit, the owner of the property will submit to the Planning Division for approval, a management plan detailing strategies for control of dust during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. **(Less Than Significant Impact)**

6. Impact AES-1: Sports field lighting located near the southern border of the project site could expose future residents to a significant source of night lighting and/or glare. **(Significant Impact)**

MM AES-1: Light and Glare. Prior to approval of a specific detailed site plan, analysis shall be completed to address glare and ambient lighting during night events from the recreational field sports lights. Impacts to future residential units at the project site shall be mitigated to a less than significant level as determined by the City. Requirements to reduce light and glare to a less than significant level could include, but is not limited to the following:

1. The consideration of the Morgan Hill *Architectural Review Handbook* to utilize a combination of setbacks, project design that orients windows so that they do not directly face sports lights, planting of trees to block direct views of the sports field lights;
2. Occupant disclosure documentation for future tenants or buyers of property in units affected by sports field lighting;
3. Adjustment of existing sports field lights; and
4. A combination of the measures above. **(Less Than Significant Impact)**

7. Impact BIO-1: Construction activities associated with future residential development on the site 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. **(Significant Impact)**

MM BIO-1: Nesting Birds. If impacts to on-site shrubs and trees cannot be avoided, then vegetation removal shall occur outside of the breeding season, which is typically between February 1st and August 30th.

Prior to the issuance of a Grading Permit, a nesting bird survey 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 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 HCP which addresses species covered under the MBTA. **(Less than Significant Impact)**

8. Impact BIO-2: Future construction activities at the project site could damage existing trees proposed for preservation. **(Significant Impact)**

MM BIO-2.1: Tree Preservation. The following measures shall be demonstrated on plans prior to issuance of a Grading Permit or Building Permit and implemented on-site during construction activities to protect ordinance-sized trees proposed for preservation:

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 'dripline' area of trees. Where root damage cannot be avoided, roots encountered (over one inch diameter) should be exposed approximately 12 inches 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 six- to eight- feet in height. Post no parking or storage signs around the outside of the fencing. Do not attach posting to the mainstem 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 one- to two- years following completion of construction.

Trees that will 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 pounds 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 conditions, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.

(Less than Significant Impact)

MM BIO-2.2: Tree Preservation. Individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or more detailed requirements than those listed in MM BIO-2.1. Establishment of more detailed preservation efforts for specific trees on the site shall be determined by a qualified arborist through the preparation of an Arborist Report. The Arborist Report shall be prepared at the time of future development prior to issuance of a Building Permit. **(Less than Significant Impact)**

9. Impact BIO-3: Removal of large trees at the project site could result in the taking of an active raptor nest. Construction activities resulting in a substantial increase in noise could result in raptor nest abandonment in trees which are preserved, and possibly the loss of eggs or young as a result. **(Significant Impact)**

MM BIO-3: Avoidance of Nesting Season. Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most raptors in the South San Francisco Bay area extends from January through August. Therefore, if construction can be scheduled to occur between September and December, the nesting season will be avoided, and no impacts will be expected.

Nesting Raptor Survey. If it is not possible to schedule construction outside of the breeding season, a nesting raptor survey shall be completed 72 hours prior to the issuance of a Grading Permit, and prior to the removal of vegetation and/or construction activities. The nesting raptor survey will determine the absence or presence of nesting raptor species in large trees on-site, and at known or possible nesting locations within 100 feet of the project site. Surveys shall be performed prior to January to identify any potential nesting trees before the birds lay eggs.

Once eggs have been laid, a buffer of at least 150 feet shall be established, in consultation with the CDFW, around the nest site and the site shall be protected until August 15 or until the young have fledged (typically three to four weeks). **(Less than Significant Impact)**

10. Impact BIO-4: Construction activities could result in impacts to burrowing owls if they have become established on the project site at the time of future development. **(Significant Impact)**

MM BIO-4: Burrowing Owls. Development on the project site will comply with the City's Burrowing Owl Habitat Mitigation Plan and measures detailed under Condition 15 of the HCP to reduce potential impacts to burrowing owls to a less than significant level. **(Less than Significant Impact)**

11. Impact CUL-1: Earthmoving activities associated with future development in the northeastern corner of the project site could damage unknown historic archaeological deposits associated with the former residence and farming operations and/or unknown prehistoric archaeological deposits associated with a possible former watercourse. **(Significant Impact)**

MM CUL-1: Archaeological Resources.

Construction personnel involved in the site clearing and subsequent grading and trenching shall be informed that there is a potential for the discovery of subsurface cultural resources. Indicators of archaeological site deposits include, but are not limited to, the following: darker than surrounding soils, evidence of fire (ash, fire altered rock and earth, carbon flecks), concentrations of stone, bone and shellfish, artifacts of these materials and animal or human burials.

In the event any unanticipated subsurface cultural materials are exposed during construction, all grading and/or excavation operations within 50 feet of the find shall be halted, and a qualified professional archaeologist shall examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. The recommendation shall be implemented and could include collection, recordation, and analysis of any significant cultural materials.

Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains.

The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to their authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

If resources are encountered, a final report shall be submitted to the Director of Community Development. This report shall contain: 1) a description of the mitigation program that was implemented and its results including a description of the monitoring and testing program; 2) a list of the resources found; 3) a summary of the resources analysis methodology and conclusion; and 4); a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Community Development.

If paleontological resources are encountered during subsurface construction activities, all work within 50 feet of the discovery shall be redirected until a qualified paleontologist can evaluate the finds and make recommendations. If the paleontological resources are found to be significant, they shall be avoided by project construction activities and recovered by a qualified paleontologist. Upon completion of the recovery, a paleontological assessment shall be conducted by a qualified paleontologist to determine if further monitoring for paleontological resources is required.

The assessment shall include: 1) the results of any geotechnical investigation prepared for the project site; 2) specific details of the construction plans for the project site; 3) background research; and 4) limited subsurface investigation within the project site. If a high potential to encounter paleontological resources is confirmed, a monitoring plan of further project subsurface construction shall be prepared in conjunction with this assessment. After project subsurface construction has ended, a report documenting monitoring, methods, findings, and further recommendations regarding paleontological resources shall be prepared and submitted to the Director of Community Development. **(Less Than Significant Impact)**

12. Impact GEO-1: Future development on the project site could result in significant amounts of soil erosion during construction activities. **(Significant Impact)**

MM GEO-1: Erosion Control Plan. Future development proposals for the site will be required to prepare an Erosion Control Plan as a standard condition of approval prior to issuance of any Building and/or Site Development Permit, subject to review and approval of the Public Works Department. Conformance with the measures in the erosion control plan would reduce soil erosion during future construction. **(Less Than Significant Impact)**

13. Impact HYD-1: The project site has a water supply well on-site that was filled in with concrete over ten years ago. If improperly abandoned, the well could be contributing to pollutants in the ground water. **(Significant Impact)**

MM HYD-1: Abandoned Well. At the time of future development of a specific project on the site, well records located at the Santa Clara Valley Water District shall be reviewed to evaluate whether the on-site well was properly abandoned under a permit from the District. In the event that the well was not abandoned under permit, an appointment shall be made with the District for an inspection of the grouting on the abandoned well. Improvements shall be made to the grouting per the recommendations of the District until the District determines that the well will not impact groundwater and that no further action is necessary. **(Less Than Significant Impact)**

14. Impact HYD-2: The project site may have a septic tank on-site associated with the former residence. If the septic tank was used for unlawful discharges of hazardous materials it could have contributed to pollutants in ground water beneath the site. **(Significant Impact)**

MM HYD-2: Possible Septic Tank. With implementation of the mitigation measures for the septic tank listed in Section 2.11, *Hazardous Materials*, the septic tank at the project site will not result in significant impacts to water quality. **(Less Than Significant Impact)**

15. Impact HAZ-1: The project site may have a septic tank on-site which may have been used for unlawful discharges of hazardous materials. The septic system could have contributed to pollutants in the soils and/or waters at the project site. **(Significant Impact)**

MM HAZ 1: Potential Septic System. Sampling shall be completed prior to approval of a specific development project, to evaluate potential discharges of hazardous waste related to the septic system. Should tests results indicate contamination above applicable thresholds, a

remediation plan shall be prepared and implemented in accordance with applicable regulations. **(Less Than Significant Impact)**

16. Impact HAZ-2: Construction workers and future residents at the project site could be exposed to contaminated soils including soils with elevated levels of lead and chlordane concentrations. **(Significant Impact)**

MM HAZ-2: Lead Based Paint. Prior to approval of a specific development project, additional soil samples shall be collected near the former structures on-site to determine the lateral and vertical extent of impacted soils and documented in a Soils Report to be submitted to the City. Based on the soils report, impacted soils at the project site shall be over-excavated. Confirmation soil samples shall be collected to document that all impacted soil has been removed and that concentrations of contaminants in soils at the project site have been restored to concentration levels that do not exceed the residential CCHSLs. This report shall be submitted to the City.

Soil removed from the project site shall be appropriately disposed of as a California hazardous waste (per Title 22 of the California Code of Regulations), with additional analysis and sampling completed per requirements of the permitted landfill facility accepting the impacted soil.

The source and quality of all imported soil during construction activities shall be documented per the guidance of the DTSC's *October 2001 Clean Fill Advisory*. **(Less Than Significant Impact)**

17. Impact HAZ-3: If contaminants are present on-site in undocumented stockpiles and/or fill at concentrations that exceed residential screening levels, then soil in the stockpiles and/or fill will be hazardous to future residents if kept on-site and used as engineered fill. Additionally, soil containing asphalt could subject future residents to hazardous odors if kept on-site and used as engineered fill. **(Significant Impact)**

MM HAZ-3: Soil Stockpiles and Fill. Prior to approval of a specific development project, soil samples shall be collected from each of the soil stockpiles and from the areas of fill in the southeastern portion of the site to determine whether impacted soils are present and documented in a Soils Report to be submitted to the City.

All impacted soils, and soils that contain asphalt, shall be removed and properly disposed of in accordance with the methodology described above in MM HAZ-2.1. **(Less Than Significant Impact)**

18. Impact C-BIO-1: The pollutant emissions from project-generated trips will contribute to the significant cumulative indirect impact to sensitive serpentine habitats. **(Significant Cumulative Impact)**

MM C-BIO-1: Nitrogen Deposition Fee. The project shall comply with the Valley Habitat Plan and pay the applicable nitrogen deposition fee based on the number of net new vehicle trips. **(Less Than Significant Cumulative Impact)**

III. SIGNIFICANT IMPACTS WHICH CANNOT BE FULLY MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

A. Findings for Each Potentially Significant Impact Which Cannot Be Reduced to a Less Than Significant Level. The City Council hereby makes the following findings under this paragraph A for each potentially significant impact of the proposed Project that cannot be reduced to a less-than-significant level, as presented below. For some impacts, mitigation measures and avoidance measures will reduce impacts, and the measures will be incorporated into the Project and required of subsequent projects, however it cannot be determined that incorporation of such measures will reduce each of the impacts to a less-than-significant level, and therefore the impacts are considered to remain significant and unavoidable, as explained in each of the findings below. All of these mitigation measures shall be deemed adopted as part of the City Council's approval of the Project and certification of the Final EIR.

1. Impact TRAN-1: Future development of the site with up to 381 residential dwelling units will result in a significant and unavoidable impact to the following freeway segment during the PM peak hour under existing plus project conditions: Southbound US 101, from Burnett Avenue (lane drop) to Cochrane Road, until such a time when Caltrans and local agencies undertake the planned widening of US 101 between Morgan Hill and Gilroy. **(Significant and Unavoidable Impact)**

Finding: The results of the freeway segment analysis show that the project will cause a significant increase in traffic volumes (one percent or more of the freeway capacity) on southbound US 101, from Burnett Avenue to Cochrane Road. This segment is currently operating at LOS F during the PM peak hour. Under existing conditions, the southbound US 101 impacted segment includes the drop of the HOV lane. The poor operations on the impacted segment are a result of the lane drop and merging.

The VTA has identified plans to widen US 101 to four lanes through the extension of the southbound and northbound HOV lanes from north of Cochrane Road, south through Morgan Hill to Gilroy. This includes removal of the lane drop on the impacted freeway segment and carrying the HOV lane south. The future improvements will remove the current merge and poor operating conditions, however, there is currently no program in place to fund the improvement envisioned by VTA. The implementation of a regional fee would require the commitment of multiple jurisdictions within Santa Clara County because the collection of fees by one individual jurisdiction would not adequately fund freeway facility improvements.

Due to cost of right-of-way, it is not feasible for an individual development project to implement the extensive transportation system improvements described above.

There are no feasible mitigation measures available to reduce the impact to the freeway segment.

2. Impact C-TRAN-1: Future development of the site with up to 381 residential dwelling units will generate a cumulatively considerable volume of traffic at an already impacted freeway segment. **(Significant and Unavoidable Cumulative Impact)**

Finding: The results of the freeway segment analysis show that the project will cause a significant increase in traffic volumes (one percent or more of the freeway capacity) on southbound US 101, from Burnett Avenue to Cochrane Road. This segment is currently operating at LOS F during the PM peak hour. Under existing conditions, the southbound US 101 impacted segment includes the drop of the HOV lane. The poor operations on the impacted segment are a result of the lane drop and merging.

The VTA has identified plans to widen US 101 to four lanes through the extension of the southbound and northbound HOV lanes from north of Cochrane Road, south through Morgan Hill to Gilroy. This includes removal of the lane drop on the impacted freeway segment and carrying the HOV lane south. The future improvements will remove the current merge and poor operating conditions, however, there is currently no program in place to fund the improvement envisioned by VTA. The implementation of a regional fee would require the commitment of multiple jurisdictions within Santa Clara County because the collection of fees by one individual jurisdiction would not adequately fund freeway facility improvements.

Due to cost of right-of-way, it is not feasible for an individual development project to implement the extensive transportation system improvements described above.

There are no feasible mitigation measures available to reduce the impact to the freeway segment.

IV. PROJECT ALTERNATIVES

A. **Background.** CEQA requires that an EIR identify a reasonable range of alternatives to a project as it is proposed, including a "No Project" alternative. The CEQA Guidelines specify that the EIR should identify alternatives that "will feasibly attain most of the basic objectives of the project but will avoid or substantially lessen any of the significant effects of the project." The purpose of the alternatives analysis is to determine whether there are alternatives of design, scope or location that will substantially lessen the significant impacts, even if those alternatives "impede to some degree the attainment of the project objectives," or are more expensive. [Section 15126.6]

The range of alternatives selected for analysis is governed by the "rule of reason," which requires the EIR to discuss only those alternatives necessary to permit a reasoned choice. Although the alternatives do not have to meet every goal and objective set for the proposed project, they should "feasibly attain most of the basic objectives of the project." CEQA does not require that all possible alternatives be evaluated, only that "a range of feasible alternatives" be discussed to encourage both meaningful public participation and informed decision making. In selecting alternatives to be evaluated, consideration may be given to their potential for reducing significant unavoidable impacts, reducing significant impacts

that are mitigated by the project to less than significant levels, and further reducing less than significant impacts.

Regarding feasibility of alternatives, CEQA and the CEQA Guidelines, and case law on the subject have found that feasibility can be based on a wide range of factors and influences. CEQA's general definition of feasibility is "capable of being accomplished in a successful manner within a reasonable **period of time, taking into account economic, environmental, legal, social, and technological** factors" Among the factors that may be taken into account in considering the feasibility of an alternative are " ... site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries ...and whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site. " [Section 15126.6(f)(1)]

Consideration of a "No Project" alternative is mandatory. Alternatives discussed in the EIR are listed and briefly discussed below. For comparative purposes, the objectives of the proposed Project are set forth in Section J.B. of these findings, and impacts of the proposed Project are described in Sections II and III above.

1. No Project Alternative

Currently, the project site is unoccupied. The western half of the site is developed with an abandoned walnut orchards and the eastern half of the site is mix of non-native grassland and graded areas with stockpiles of dirt. The northeastern corner of the site has remnants of a former residence and farming complex. Under the No Project Alternative, the project site could remain as is or it could be developed with uses consistent with the City's General Plan and zoning. The existing General Plan and zoning allows for the development of the site with commercial uses. For these reasons, there are two possible No Project alternatives for the project: 1) a No Project/No Development Alternative and 2) a No Project/Existing General Plan Development Alternative.

The No Project/No Development Alternative assumes that the project site will remain as it is today, developed with an abandoned walnut orchard to the west, a mix of non-native grassland and graded areas with undocumented soil stockpiles to the east, and remnants of a former residence and farming complex in the northeast corner. The site is unoccupied.

Comparison of Environmental Impacts

The project site has a water supply well associated with the former residence. The water supply well was filled in with concrete over ten years ago. *Action 21.7* of the Morgan Hill General Plan recognizes that abandoned and unused wells can be prime sources for transferring contaminants from the upper to lower aquifer. It is unknown whether the well was properly abandoned under permit by the Santa Clara Valley Water District. In the event that the well was improperly abandoned, the well could be a conduit for pollutants to enter the ground water. The project site may have a septic tank on-site associated with the former residence. If the septic tank was used for unlawful discharges of hazardous materials it could have contributed to pollutants in ground water beneath the site.

The No Project/No Development Alternative will leave the site as-is, with the water-well in place and possibly contributing to groundwater pollution, and with hazardous materials associated with a possible septic tank left unresolved. The No Project/No Development Alternative will also leave the undocumented soil stockpiles on-site, which if contaminated could contribute to pollutants in stormwater runoff from the site and/or airborne pollutants when there is wind.

The No Project/No Development Alternative will avoid all other impacts (construction and operational) associated with the proposed project.

Relationship to Project Objectives

The No Project/No Development Alternative will not meet any of the project objectives because the purpose of the land use designation change is to ultimately allow for development of residential on the project site. A No Project/No Development Alternative does not fulfill that purpose.

Conclusion

Because the No Project/No Development Alternative will not result in any development on the site this Alternative will avoid all of the project's construction and operational environmental impacts, however, an existing water well will remain which may act as a conduit for pollutants to enter the groundwater, and unresolved hazardous materials issues pertaining to a possible septic tank and undocumented soil stockpiles will remain. This Alternative will not meet any of the project objectives.

2. No Project/Existing General Plan Development Alternative

The No Project/Existing General Plan Development Alternative assumes that the project site will be developed in conformance with the existing *Commercial* General Plan designation and *CG-Commercial* zoning. For the purpose of analysis, the following discussion assumes that the site would be developed with 277,172 sf of commercial space (0.35 floor area ratio), based on typical commercial development patterns in the City of Morgan Hill.

Comparison of Environmental Impacts

The affected freeway segment (southbound US 101 from Burnett Avenue to Cochrane Road) has a capacity of 6,900 vehicles per hour. A project that contributes fewer than 69 southbound PM peak hour trips to the affected freeway segment would have a less than significant impact. Under the existing General Plan land use designation, 277,172 sf of commercial development on the project site will generate approximately 277 AM peak hour trips and 736 PM peak hour trips per day, with 52 southbound PM peak hour trips on US 101. Under this alternative the overall daily trips is greater than the proposed project, however, build-out of the site under the *Commercial* land use designation will avoid the project's significant and unavoidable freeway impact by contributing fewer than 69 southbound PM peak hour trips to the affected freeway segment.

Commercial development is not considered a sensitive land use and so impacts from noise sources in the project area to the site will be avoided. Noise impacts from truck deliveries,

loading docks, and traffic will impact single-family residential development located on the east side of Murphy Avenue. Commercial development on the site will generate approximately 8,000 trips per day which will double traffic on Murphy Avenue under the existing roadway network, assuming 30 percent of the vehicles access the site via Murphy Avenue. This would cause a noticeable three (3) dBA noise increase along the roadway, which is a significant unavoidable impact.

Development of the site with commercial uses will generate 277 AM peak hour trips and 736 PM peak hour trips, which is an additional 83 AM peak hour trips and 500 PM peak hour trips compared to the proposed project. Based on trip distribution estimates, the trips generated under the *Commercial* land use designation will not add significant amounts of vehicles to intersections in the project area. As shown in Table 8 under Year 2030 conditions of the EIR, development of the site under the *Commercial* land use designation will add trips to the future Murphy/Main and Murphy/Diana intersections which will operate at LOS F without signalization. These two intersections will, however, be signalized as part of improvements associated with the extension of Murphy Avenue to ensure that they continue to operate at acceptable LOS D, or better.

This Alternative will result in higher demand on energy use, and less demand related to water, generation of solid waste, 131 parks, and schools. Development of the site with 277,172 sf of commercial uses will slightly exceed the BAAQMD construction criteria air pollutant thresholds. It will also exceed the BAAQMD operational thresholds for criteria air pollutants and greenhouse gas emissions.

The No Project/Existing General Plan Development Alternative will include site preparation prior to development, including evaluation of whether the on-site well was properly abandoned under a permit from the District. In the event that the well was not abandoned under permit, an inspection of the grouting on the abandoned well will be completed and improvements will be made to the grouting on the well until the District determines that the well will not impact groundwater. This alternative will also resolve possible hazardous materials issues related to the undocumented soil stockpiles and a possible septic tank on the site.

The No Project/Existing General Plan Development Alternative will involve similar site disturbance as the proposed project and, therefore, will have impacts similar to the proposed project related to aesthetics, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality.

Relationship to Project Objectives

The No Project/Existing General Plan Development Alternative will develop the site with commercial uses which could attract employers. Otherwise, this alternative does not meet any of the project objectives which support residential development on the project site.

Conclusion

The No Project/Existing General Plan Development Alternative will avoid the project's impact to the affected freeway segment, but will double daily traffic on Murphy Avenue which is a significant unavoidable traffic noise impact. This Alternative will meet the objective to attract employers. This Alternative will not meet any of the other project objectives.

Reduced Density Alternative

The purpose of the Reduced Density Alternative is to identify the amount of residential development that could be placed on the site while avoiding the project's significant and unavoidable freeway impact. The affected freeway segment capacity is 6,900 vehicles per hour, and so one percent of segment capacity equates to 69 trips per hour. A project that contributes fewer than 69 southbound PM peak hour trips to the affected freeway segment will have a less than significant impact to that US 101 segment. According to the trip generation, assignment, and distribution for the site and the proposed residential use, the project size would need to be reduced to 250 units (i.e. by up to 131 dwelling units, a 34 percent reduction compared to the maximum development scenario for the site under the proposed land use designation) to avoid the project's significant freeway impacts.¹³² This equates to a density of 13.75 du/ac.

Under the Reduced Density Alternative, up to 250 residential units could be constructed on-site. At 13.75 du/ac, the proposed GPA will have to be changed from *Multi-family Medium (14-21 du/ac)* to the *Multi-family Low (5-14 du/ac)* land use designation which will allow both detached and attached dwelling units on the site.

Comparison of Environmental Impacts

The Reduced Density Alternative with up to 250 units will avoid the project's significant and unavoidable freeway impact. This Alternative will have reduced impacts from noise due to less traffic on roadways and less congested intersection levels of service, and reduced demand on public services and utility use.

The Reduced Density Alternative will include site preparation prior to development, including evaluation of whether the on-site well was properly abandoned under a permit from the District. In the event that the well was not abandoned under permit, an inspection of the grouting on the abandoned well will be completed and improvements will be made to the grouting on the well until the District determines that the well will not impact groundwater. This alternative will also resolve possible hazardous materials issues related to the undocumented soil stockpiles and a possible septic tank on the site.

The Reduced Density Alternative will involve similar site disturbance (i.e. developing the site with up to 250 units will still entail development activity across the entire site) and therefore will have impacts similar to the proposed project related to aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, and noise impacts to the future development.

Relationship to Project Objectives

Because this the Reduced Density Alternative meets all of the project objectives while avoiding the impact to the freeway segment, the project objectives are re-stated below, followed by a sentence describing how this alternative meets each objective.

a) Develop a residential project that is economically feasible and is consistent with the City's Measure C provisions.

The Reduced Density Alternative will allow up to 250 residential units on the site, which is 131 units less than currently proposed. The development of 250 dwelling units will reduce the potential residential gross density on-site from approximately 21 to 13.75 du/ac. The economic feasibility of development of the site at 13.75 du/ac is currently unknown.

b) Provide housing to accommodate forecasted population growth within Morgan Hill.

The Reduced Density Alternative proposes housing on the site.

c) Provide an appropriate mix of housing types that will satisfy demand among various community segments.

The Reduced Density Alternative will allow a mix of housing types on the site including attached and detached, market-rate rental, and for-sale housing.

d) Provide much needed housing for new workers at local jobs.

The Reduced Density Alternative will provide additional housing in the City of Morgan Hill. The housing could accommodate local or commuting workers.

e) Help attract valued employers.

The Reduced Density Alternative will allow a mix of housing on the site which will accommodate a larger population within the City. This creates a larger workforce which may attract employers to the City.

f) Diversify the current stock of market-rate rental housing, thereby increasing rental rate competition and encouraging renovation of existing inventory.

The Reduced Density Alternative will allow a mix of residential development on the site, including market rate rental housing.

g) Transition accordingly from the adjacently zoned PD parcels to the north to encourage walkable retail.

With review of specific design plans at the time of future development on the site, the site can be designed under the Reduced Density Alternative so that it incorporates and transitions well with the commercial designated and PD zoned properties to the north.

Conclusion

The Reduced Density Alternative will avoid the project's significant and unavoidable freeway impact. As discussed above, this alternative will meet all of the project objectives.

V. STATEMENT OF OVERRIDING CONSIDERATIONS

A. With respect to the significant effects identified in Section III which were subject to a finding that considerations make infeasible the mitigation measures or alternatives identified in the EIR, the City Council hereby finds that there are specific economic, legal, social, technological, or other considerations that support approval of the proposed Project.

B. With respect to the Transportation Impacts, the City finds that the high demand for higher density, multi-family housing for a variety of incomes outweighs the significant transportation impacts. The benefits of the project would encourage high-quality designed, walkable, multi-family density near neighborhood-serving services, and infrastructure that current exist or are being committed to be developed by the project. City's goals to provide higher density housing is a high priority and the implementation of this project would achieve those goals.

VI. SUBSTANTIAL EVIDENCE SUPPORTING FINDINGS

Substantial evidence supporting each and every finding made herein is contained in the Final EIR and record of proceedings. Omission of reference in these findings to any evidence in the EIR and/or record of proceedings is not intended to exclude that evidence as supporting these findings

In making these findings, the City Council has relied upon the expertise of a variety of independent technical and professional consultants to the City, and the expertise of the City's Staff. The City Council has also carefully considered the evidence submitted by properly owners and other interested agencies and individuals. To the extent that evidence consists of expert opinions that differ from the opinions of the City's outside consultants and Staff, at most it represents a disagreement of experts, which is adequately reviewed in the EIR. Based on its review, the City Council has determined that the opinions of its outside consultants and Staff are valid and are hereby accepted. In some instances, the City Council has also relied on the expertise of other agencies who have provided comments on the Draft EIR and other actions related to the Project. To the extent that alternatives or mitigation measures were proposed by other agencies or interested persons that differ from the mitigation adopted herein, the City Council specifically rejects these proposals based on the substantial evidence in the record supporting the mitigation adopted as sufficient and necessary to mitigate impacts to a less than significant level or to the level that the impacts can feasibly be mitigated.

VII. MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

The proposed MMRP for the Condit-Evergreen General Plan and Zoning Amendment, attached, is hereby adopted, and it and its provisions for mitigation measures will be adopted in conjunction with subsequent

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MITIGATION MONITORING OR REPORTING PROGRAM

Condit - Evergreen General Plan Amendment and Rezoning Project

**File No.
GPA-13-01/ZA-14-16**



November 2014

P R E F A C E

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring or Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring or reporting program is to ensure compliance with the mitigation measures during project implementation.

The Environmental Impact Report (EIR) concluded that implementation of the Condit – Evergreen General Plan Amendment and Rezoning Project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring or Reporting Program addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the EIR concluded that the impacts from implementation of the project would be less-than-significant.

**MITIGATION MONITORING OR REPORTING PROGRAM
CONDIT EVERGREEN GENERAL PLAN AMENDMENT AND REZONING**

Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
Aesthetics				
Impact AES-1: Sports field lighting located near the southern border of the project site could expose future residents to a significant source of night lighting and/or glare. (Significant Impact)	MM AES-1: Light and Glare. Prior to approval of a specific detailed site plan, analysis shall be completed to address glare and ambient lighting during night events from the recreational field sports lights. Impacts to future residential units at the project site shall be mitigated to a less than significant level as determined by the City. Requirements to reduce light and glare to a less than significant level could include, but are not limited to the following: <ol style="list-style-type: none"> 1. The consideration of the Morgan Hill <i>Architectural Review Handbook</i> to utilize a combination of setbacks, project design that orients windows so that they do not directly face sports lights, planting of trees to block direct views of the sports field lights; 2. Occupant disclosure documentation for future tenants or buyers of property in units affected by sports field lighting; 3. Adjustment of existing sports field lights; and 4. A combination of the measures above. (Less Than Significant Impact with Mitigation)	Director of the Community Development Department. Project Applicant.	Review of light and glare analysis. Analysis shall be completed to address glare and ambient lighting during night events from the recreational field sports lights. Findings from the light and glare analysis shall be integrated into the project as conditions of approval.	Prior to approval of a specific detailed site plan.
Air Quality				
Impact AQ-1: Sensitive receptors in residential dwelling units located east of	MM AQ-1: Temporary Toxic Air Contaminants. At the time specific development is proposed for the project site, a Community Health Risk Analysis will be prepared to evaluate and mitigate impacts from TACs generated during construction at nearby sensitive receptors to a less than	Director of the Community Development Department.	Review and approval of the Community Health Risk Analysis by	At the time specific development is proposed for the

**MITIGATION MONITORING OR REPORTING PROGRAM
CONDIT EVERGREEN GENERAL PLAN AMENDMENT AND REZONING**

Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
the project site, and athletes using the recreational sports fields located south of the project site could be exposed to elevated levels of TACs during construction activities on the project site. (Significant Impact)	significant level. (Less Than Significant Impact with Mitigation)	Project Applicant.	City staff. Incorporation of required measures on all construction documents, contracts, and project plans.	project site, prior to issuance of a Development and/or Design Review Permit.
Impact AQ-2: Sensitive receptors in the vicinity of the project site, including residents of single-family residential units to the east and athletes using recreational sports fields to the south (if practices and/or events are held within the hours of construction activities from 7:00am to 8:00pm weekdays, and 9:00am to 6:00pm weekends), could be	MM AQ-2.1: Fugitive Dust. At the time any future specific development is considered for the site, the following measures, or equivalent measures, will be required as conditions of approval to reduce the generation of short-term construction dust. The contractor shall implement the following BAAQMD recommended Best Management Practices which are required of all projects: <ol style="list-style-type: none"> 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. 3. 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. 4. All vehicle speeds on unpaved roads shall be limited to 15 mph. 5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as 	Director of the Community Development Department. Project Applicant and Contractors.	Verification and approval of grading plans and ongoing inspections during construction activities. Dust control measures shall be listed on Grading Plans and implemented during project construction activities by contractors.	At the time specific development is proposed for the site, prior to issuance of a Grading Permit, and while project is under construction.

**MITIGATION MONITORING OR REPORTING PROGRAM
CONDIT EVERGREEN GENERAL PLAN AMENDMENT AND REZONING**

Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
adversely affected by dust generated during construction activities. (Significant Impact)	<p>possible after grading unless seeding or soil binders are used.</p> <p>6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>7. 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.</p> <p>8. Avoid staging construction equipment within 200 feet of existing residences or sensitive receptors.</p> <p>9. Large construction equipment (i.e., over 50 horsepower) working for more than 3 days on the site shall be equipped with diesel particulate matter filters that reduce diesel particulate matter by at least 85 percent.</p> <p>10. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p> <p>Implementation of these BMP measures recommended by BAAQMD will reduce the air quality impacts associated with fugitive dust from grading and new construction to a less than significant.</p> <p>(Less Than Significant Impact with Mitigation)</p>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>

**MITIGATION MONITORING OR REPORTING PROGRAM
CONDIT EVERGREEN GENERAL PLAN AMENDMENT AND REZONING**

Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
<i>Continued from previous page.</i>	<p>MM AQ-2.2: Fugitive Dust. In accordance with the City of Morgan Hill Standard Conditions of approval, prior to issuance of a building permit, the owner of the property will submit to the Planning Division for approval, a management plan detailing strategies for control of dust during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.</p> <p>(Less Than Significant Impact with Mitigation)</p>	<p>Director of the Community Development Department</p> <p>Project Applicant.</p>	<p>Review and approval of Management Plan.</p> <p>A Management Plan detailing strategies for control of dust during construction of the project shall be submitted to the Planning Division for review and approval.</p>	<p>At the time specific development is proposed for the site, prior to issuance of a Building Permit.</p>
Biological Resources				
<p>Impact BIO-1: Construction activities associated with future residential development on the site 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</p>	<p>MM BIO-1: Nesting Birds. If impacts to on-site shrubs and trees cannot be avoided, then vegetation removal shall occur outside of the breeding season, which is typically between February 1st and August 30th.</p> <p>Prior to the issuance of a Grading Permit, a nesting bird survey 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.</p> <p>The biologist will consult with CDFW to determine the size of the no-</p>	<p>Director of the Community Development Department.</p> <p>Project Applicant and Contractors.</p>	<p>Verification and approval of Nesting Bird Survey.</p> <p>The Nesting Bird Survey shall be submitted to the City for review and approval.</p> <p>Recommendations from the Nesting Bird Survey shall be</p>	<p>At the time specific development is proposed for the site, prior to issuance of a Grading Permit, or tree removal.</p>

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abandonment of nests. (Significant Impact)	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 HCP which addresses species covered under the MBTA. (Less Than Significant Impact with Mitigation)	<i>Continued from previous page.</i>	included in all contract specifications and implemented by contractors.	<i>Continued from previous page.</i>
Impact BIO-2: Future construction activities at the project site could damage existing trees proposed for preservation. (Significant Impact)	<p>MM BIO-2.1: Tree Preservation. The following measures shall be demonstrated on plans prior to issuance of a Grading Permit or Building Permit and implemented on-site during construction activities to protect ordinance-sized trees proposed for preservation:</p> <ul style="list-style-type: none"> • 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 'dripline' area of trees. Where root damage cannot be avoided, roots encountered (over one inch diameter) should be exposed approximately 12 inches 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 six- to eight- feet in height. Post no parking or storage signs around the outside of the fencing. Do not attach posting to the mainstem 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 	<p>Director of the Community Development Department.</p> <p>Project Applicant and Contractors.</p>	<p>Review and approval of tree protection plans.</p> <p>Tree protection plans shall be reviewed by the City and measures to protect trees shall be listed on all grading and construction plans and implemented by contractors.</p> <p>Ongoing inspections shall be completed to verify implementation during construction activities.</p>	At the time specific development is proposed for the site, prior to issuance of a Grading Permit.

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<i>Continued from previous page.</i>	<p>fenced off area.</p> <ul style="list-style-type: none"> • 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 one- to two- years following completion of construction. • Trees that will 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 pounds 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 conditions, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate. <p>MM BIO-2.2: Tree Preservation. Individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or more detailed requirements than those listed in MM BIO-2.1. Establishment of more detailed preservation efforts for specific trees on the site shall be determined by a qualified arborist through the preparation of an Arborist Report. The Arborist Report shall be prepared at the time of future development prior to issuance of a Building Permit.</p> <p>(Less Than Significant Impact with Mitigation)</p>	<p><i>Continued from previous page.</i></p> <p>Director of the Community Development Department.</p> <p>Project Applicant and Contractors.</p>	<p><i>Continued from previous page.</i></p> <p>Review and approval of Tree Arborist Report</p> <p>The Tree Arborist Report shall be submitted to the City for review and approval.</p> <p>Recommended tree protection measures shall be listed on</p>	<p><i>Continued from previous page.</i></p> <p>At the time specific development is proposed for the site, prior to issuance of a Building or Grading Permit.</p> <p><i>Continued from previous page.</i></p>

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Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	grading and construction plans, and implemented by contractors.	<i>Continued from previous page.</i>
<p>Impact BIO-3: Removal of large trees at the project site could result in the taking of an active raptor nest. Construction activities resulting in a substantial increase in noise could result in raptor nest abandonment in trees which are preserved, and possibly the loss of eggs or young as a result. (Significant Impact)</p>	<p>MM BIO-3: Avoidance of Nesting Season. Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most raptors in the South San Francisco Bay area extends from January through August. Therefore, if construction can be scheduled to occur between September and December, the nesting season will be avoided, and no impacts will be expected.</p> <p>Nesting Raptor Survey. If it is not possible to schedule construction outside of the breeding season, a nesting raptor survey shall be completed 72 hours prior to the issuance of a Grading Permit, and prior to the removal of vegetation and/or construction activities. The nesting raptor survey will determine the absence or presence of nesting raptor species in large trees on-site, and at known or possible nesting locations within 100 feet of the project site. Surveys shall be performed prior to January to identify any potential nesting trees before the birds lay eggs.</p> <p>Once eggs have been laid, a buffer of at least 150 feet shall be established, in consultation with the CDFW, around the nest site and the site shall be protected until August 15 or until the young have fledged (typically three to four weeks).</p> <p>(Less Than Significant Impact with Mitigation)</p>	<p>Director of the Community Development Department.</p> <p>Project Applicant and Contractors.</p>	<p>Verification and approval of Nesting Raptor Survey.</p> <p>The Nesting Raptor Survey shall be submitted to the City for verification and approval.</p> <p>Recommendations from the Nesting Raptor Survey shall be included in all contract specifications and implemented by contractors.</p>	<p>If it is not possible to schedule construction outside of the breeding season, a nesting raptor survey shall be completed 72 hours prior to the issuance of a Grading Permit, and prior to the removal of vegetation and/or construction activities.</p> <p>Surveys shall be performed prior to January to identify any potential nesting</p>

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<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	trees before the birds lay eggs.
Impact BIO-4: Construction activities could result in impacts to burrowing owls if they have become established on the project site at the time of future development. (Significant Impact)	MM BIO-4: Burrowing Owls. Development on the project site will comply with the City's Burrowing Owl Habitat Mitigation Plan and measures detailed under Condition 15 of the HCP to reduce potential impacts to burrowing owls to a less than significant level. (Less Than Significant Impact with Mitigation)	Director of the Community Development Department. Project Applicant and Contractors.	Verification, review and approval of conditions on grading and construction plans. Measures proposed to reduce impacts to Burrowing Owls, in compliance with the City's Burrowing Owl Habitat Mitigation Plan and measures detailed under Condition 15 of the HCP, shall be submitted to the City for review and approval, and printed on all grading and construction plans to be implemented by contractors.	At the time specific development is proposed for the site, prior to issuance of a Grading Permit.

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Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
Cultural Resources				
Impact CUL-1: Earthmoving activities associated with future development in the northeastern corner of the project site could damage unknown historic archaeological deposits associated with the former residence and farming operations and/or unknown prehistoric archaeological deposits associated with a possible former watercourse. (Significant Impact)	MM CUL-1: Archaeological Resources. <ul style="list-style-type: none"> Construction personnel involved in the site clearing and subsequent grading and trenching shall be informed that there is a potential for the discovery of subsurface cultural resources. Indicators of archaeological site deposits include, but are not limited to, the following: darker than surrounding soils, evidence of fire (ash, fire altered rock and earth, carbon flecks), concentrations of stone, bone and shellfish, artifacts of these materials and animal or human burials. In the event any unanticipated subsurface cultural materials are exposed during construction, all grading and/or excavation operations within 50 feet of the find shall be halted, and a qualified professional archaeologist shall examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. The recommendation shall be implemented and could include collection, recordation, and analysis of any significant cultural materials. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. <p>The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to their authority, he shall notify the Native American Heritage Commission who shall</p>	Director of the Community Development Department. Project Applicant and Contractors.	Verification, review and approval of grading and construction plans. All measures to protect unknown archaeological resources at the site as listed in MM CUL-1, shall be printed on grading and construction plans and implemented by contractors.	At the time specific development is proposed for the site, prior to issuance of a Grading Permit.

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Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
<i>Continued from previous page.</i>	<p>attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.</p> <ul style="list-style-type: none"> • If resources are encountered, a final report shall be submitted to the Director of Community Development. This report shall contain: 1) a description of the mitigation program that was implemented and its results including a description of the monitoring and testing program; 2) a list of the resources found; 3) a summary of the resources analysis methodology and conclusion; and 4); a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Community Development. • If paleontological resources are encountered during subsurface construction activities, all work within 50 feet of the discovery shall be redirected until a qualified paleontologist can evaluate the finds and make recommendations. If the paleontological resources are found to be significant, they shall be avoided by project construction activities and recovered by a qualified paleontologist. Upon completion of the recovery, a paleontological assessment shall be conducted by a qualified paleontologist to determine if further monitoring for paleontological resources is required. <p>The assessment shall include: 1) the results of any geotechnical investigation prepared for the project site; 2) specific details of the construction plans for the project site; 3) background research; and 4) limited subsurface investigation within the project site. If a high</p>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>

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Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
<i>Continued from previous page.</i>	<p>potential to encounter paleontological resources is confirmed, a monitoring plan of further project subsurface construction shall be prepared in conjunction with this assessment. After project subsurface construction has ended, a report documenting monitoring, methods, findings, and further recommendations regarding paleontological resources shall be prepared and submitted to the Director of Community Development.</p> <p>(Less Than Significant Impact with Mitigation)</p>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>
Geology and Soils				
<p>Impact GEO-1: Future development on the project site could result in significant amounts of soil erosion during construction activities. (Significant Impact)</p>	<p>MM GEO-1: Erosion Control Plan. Future development proposals for the site will be required to prepare an Erosion Control Plan as a standard condition of approval prior to issuance of any Building and/or Site Development Permit, subject to review and approval of the Public Works Department. Conformance with the measures in the erosion control plan would reduce soil erosion during future construction.</p> <p>(Less Than Significant Impact with Mitigation)</p>	<p>Director of Public Works Department.</p> <p>Project Applicant.</p>	<p>Review and approval of Erosion Control Plan.</p> <p>An Erosion Control Plan shall be submitted to City staff for review and approval. Measures to reduce erosion shall be listed on grading plans and implemented by contractors.</p>	<p>At the time specific development is proposed for the site, prior to issuance of a Building and/or Site Development Permit.</p>

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Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
Hazards and Hazardous Materials				
Impact HAZ-1: The project site may have a septic tank on-site which may have been used for unlawful discharges of hazardous materials. The septic system could have contributed to pollutants in the soils and/or waters at the project site. (Significant Impact)	MM HAZ 1: Potential Septic System. Sampling shall be completed prior to approval of a specific development project, to evaluate potential discharges of hazardous waste related to the septic system. Should tests results indicate contamination above applicable thresholds, a remediation plan shall be prepared and implemented in accordance with applicable regulations. (Less Than Significant Impact with Mitigation)	Director of the Community Development Department. Project Applicant and Contractors.	Review and approval. Soil sampling results, and the Remediation Plan if required, shall be submitted to the City for review and approval.	Prior to approval of a Site Development Permit and/or before specific development is proposed for the site.
Impact HAZ-2: Construction workers and future residents at the project site could be exposed to contaminated soils including soils with elevated levels of lead and chlordane concentrations. (Significant Impact)	MM HAZ-2: Lead Based Paint. Prior to approval of a specific development project, additional soil samples shall be collected near the former structures on-site to determine the lateral and vertical extent of impacted soils and documented in a Soils Report to be submitted to the City. Based on the Soils Report, a Soil Management Plan shall be prepared if contaminated soils are found. Impacted soils at the site shall be over-excavated. Confirmation soil samples shall be collected to document that all impacted soil has been removed and that concentrations of contaminants in soils at the project site have been restored to concentration levels that do not exceed the residential CHHSLs. This documentation and the Soil Management Plan shall be	Director of the Community Development Department. Project Applicant and Contractors. Permitted Landfill Facility accepting any impacted soil from the site.	Review and approval. The Soils Report, and confirmation soil samples/Soil Management Plan if required, shall be submitted to the City for review and approval. Documentation showing the source	Prior to approval of a specific development project on the site.

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Impact	Mitigation and Avoidance Measures	Responsibility for Monitoring Compliance	Method of Compliance	Timing of Compliance
<i>Continued from previous page.</i>	<p>submitted to the City.</p> <p>Soil removed from the project site shall be appropriately disposed of as a California hazardous waste (per Title 22 of the California Code of Regulations), with additional analysis and sampling completed per requirements of the permitted landfill facility accepting the impacted soil.</p> <p>The source and quality of all imported soil during construction activities shall be documented per the guidance of the DTSC's <i>October 2001 Clean Fill Advisory</i>.</p> <p>(Less Than Significant Impact with Mitigation)</p>	<i>Continued from previous page.</i>	and quality of all imported soil during construction activities shall be submitted to the City for review and approval.	<i>Continued from previous page.</i>
Impact HAZ-3: If contaminants are present on-site in undocumented stockpiles and/or fill at concentrations that exceed residential screening levels, then soil in the stockpiles and/or fill will be hazardous to future residents if kept on-site and used as engineered fill. Additionally, soil	<p>MM HAZ-3: Soil Stockpiles and Fill. Prior to approval of a specific development project, soil samples shall be collected from each of the soil stockpiles and from the areas of fill in the southeastern portion of the site to determine whether impacted soils are present and documented in a Soils Report to be submitted to the City.</p> <p>All impacted soils, and soils that contain asphalt, shall be removed and properly disposed of in accordance with the methodology described above in MM HAZ-2.1.</p> <p>(Less Than Significant Impact with Mitigation)</p>	<p>Director of the Community Development Department.</p> <p>Project Applicant and Contractors.</p>	<p>Review and approval.</p> <p>The Soils Report, and confirmation soil samples if required, shall be submitted to the City for review and approval.</p> <p>Documentation showing the source and quality of all imported soil during construction</p>	Prior to approval of a specific development project on the site.

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containing asphalt could subject future residents to hazardous odors if kept on-site and used as engineered fill. (Significant Impact)	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	activities shall be submitted to the City for review and approval.	<i>Continued from previous page.</i>
Hydrology and Water Quality				
Impact HYD-1: The project site has a water supply well on-site that was filled in with concrete over ten years ago. If improperly abandoned, the well could be contributing to pollutants in the ground water. (Significant Impact)	MM HYD-1: Abandoned Well. At the time of future development of a specific project on the site, well records located at the Santa Clara Valley Water District shall be reviewed to evaluate whether the on-site well was properly abandoned under a permit from the District. In the event that the well was not abandoned under permit, an appointment shall be made with the District for an inspection of the grouting on the abandoned well. Improvements shall be made to the grouting per the recommendations of the District until the District determines that the well will not impact groundwater and that no further action is necessary. (Less Than Significant Impact with Mitigation)	Director of the Community Development Department. Project Applicant and Contractors.	Verification, review and approval. Documentation showing well-closure under permit with the Santa Clara Valley Water District shall be submitted to the City for review and approval.	At the time specific development is proposed for the site, prior to issuance of a Grading Permit.
Impact HYD-2: The project site may have a septic tank on-site associated with the former residence. If the septic tank was	MM HYD-2: Possible Septic Tank. With implementation of the mitigation measures for the septic tank listed in Section 2.11, <i>Hazardous Materials</i> , the septic tank at the project site will not result in significant impacts to water quality. (Less Than Significant Impact with Mitigation)	Director of the Community Development Department.	Review and approval. Soil sampling results, and the Remediation Plan if	Prior to approval of a specific development project on the site.

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used for unlawful discharges of hazardous materials it could have contributed to pollutants in ground water beneath the site. (Significant Impact)	<i>Continued from previous page.</i>	Project Applicant and Contractors.	required, shall be submitted to the City for review and approval.	<i>Continued from previous page.</i>
Noise and Vibration				
Impact NOI-1: Interior noise exposures at future residential dwelling units adjacent to Condit Road and Murphy Avenue could exceed the City of Morgan Hill Noise Element and Title 24 standards due to traffic noise. Interior noise levels at dwelling units located along San Pedro Avenue could be exposed to exterior noise levels of 60 dBA DNL or greater, which would require interior	MM NOI-1: Interior Noise. Prior to the issuance of development permits for any residential project, a detailed acoustical analysis, in conformance with California Noise Insulation Standards in Title 24, Part 2 of the California Code of regulations (California Building Code), will be required for final design of the proposed residential uses. The project will incorporate sound control treatments to meet an interior L_{dn} of 45 dBA (or 50 dBA as applicable) or less (with the windows closed), and attenuation of interior maximum instantaneous noise events to 50 dBA or less in bedrooms and 55 dBA or less in all other rooms. Noise attenuation features will be incorporated into the project design to the satisfaction of the City Building Official. (Less Than Significant Impact with Mitigation)	Director of the Community Development Department. City Building Official. Project Applicant and Contractors.	Verification, review and approval. The Design-level Acoustical Analysis shall be submitted to the City for review and approval. Required measures shall be listed on all construction documents, contracts, and project plans, and implemented by contractors.	Prior to issuance of a Site Development Permit.

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noise exposure protection for maximum instantaneous noise events. (Significant Impact)	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>	<i>Continued from previous page.</i>
Impact NOI-2: Residential development on the site closest to US 101 along Condit Road and near Murphy Avenue will expose future residents to exterior noise levels in excess of noise standards established in the City of Morgan Hill's General Plan. (Significant Impact)	MM NOI-2: Exterior Noise. Prior to the issuance of development permits, a detailed acoustical analysis, will be required for final design of any proposed residential development. The exterior open space areas shall be designed to meet an exterior L _{dn} of 60 dBA or less. To achieve this, the project design could include use of the residential buildings to provide shielding for outdoor use areas including courtyards, rear yards, side yards, etc., use of earth berms, and/or increased setback distances from the roadway. The final details for these measures will be determined during development of the final site plan, prior to issuance of development permits. (Less Than Significant Impact with Mitigation)	Director of the Community Development Department. City Building Official. Project Applicant and Contractors.	Verification, review and approval. The Design-level Acoustical Analysis shall be submitted to the City for review and approval. Required measures and recommendations shall be listed on all construction documents, contracts, and project plans, and implemented by contractors.	Prior to issuance of a Site Development Permit.

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Impact NOI-3: Future construction activities on the site could result in short term noise impacts. (Significant Impact)	MM NOI-3: Construction Noise. Under the Morgan Hill Municipal Code, allowed hours of construction are limited to avoid substantial impacts to sensitive receptors, such as nearby residents, as follows: 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). (Less Than Significant Impact with Mitigation)	Director of the Community Development Department. Project Applicant and Contractors.	Verification and approval. Required construction noise control measures shall be listed on all construction documents, contracts, and project plans, and implemented by contractors.	Prior to issuance of a Grading Permit.
Cumulative Impacts				
Impact C-BIO-1: The pollutant emissions from project-generated trips will contribute to the significant cumulative indirect impact to sensitive serpentine habitats. (Significant Cumulative Impact)	MM C-BIO-1: Nitrogen Deposition Fee. The project shall comply with the Valley Habitat Plan and pay the applicable nitrogen deposition fee based on the number of net new vehicle trips. (Less Than Significant Cumulative Impact with Mitigation)	Director of the Community Development Department. Project Applicant.	Verification of payment. Submit payment of nitrogen deposition fee to the City.	At the time specific development is proposed for the site, prior to issuance of a Building Permit.

SOURCE: City of Morgan Hill. *Condit – Evergreen General Plan Amendment and Rezoning Project Final EIR*. November 2014.

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