



COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

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**DRAFT
MITIGATED NEGATIVE DECLARATION**

I. DESCRIPTION OF PROJECT:

Application #s: ZA 13-07; SD 13-08; DA 13-05

APN: 767-08-035; 767-08-036; 767-08-037; and 767-08-038

Project Title: West Dunne - Gera Residential Project

Project Location: The 1.41-acre project site is located immediately west of the intersection of West Dunne Avenue and Monterey Road, within an urbanized portion of Morgan Hill. **Figure 1** of the Initial Study shows the location of the project site. The subject property is comprised of four parcels (APNs 767-08-035 through 767-08-038) that have been historically used for agricultural and residential purposes.

Project Proponent: Michael Soares
Reliance Development, LLC
517 W. Iowa Avenue
Sunnyvale, CA 94086

Project Description: The project applicant is requesting approval for the following on the 1.41-acre site:

- Demolition of two dwellings and various outbuildings, three garages and a barn;
- Subdivision of the project site into 16 lots;
- Development of 14 residential lots with 8 rowhouse units, one duet unit, three new single-family residences, and preservation of one single-family residence on Lot 9;
- Creation of one lot for open space and flood hazard buffer area; and
- Establishment of one lot as a common area for site access, public utility easement, and emergency access.

The proposed project involves the subdivision of the site's four parcels into 16 lots for 13 new residential lots (Lots 1 – 8; 10 - 14), along with a 10,367 square foot (s.f.) private driveway (Lot 19) for access to the residences and extension of public utilities. Lot 15 consists of a 15,451 s.f. open space area adjoining the drainage channel for Little Llagas Creek on the eastern boundary of the project site.

II. DETERMINATION

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

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

III. CONDITIONS (Mitigation and Standard Measures):

A. *Air Quality*

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

- MM AQ-1: Basic Construction Measures.** To limit the project's construction-related dust and criteria pollutant emissions, the following BAAQMD-recommended Basic Construction Mitigation Measures shall be included in the project's grading plan, building plans, and contract specifications:
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
 - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

B. Biological Resources

The project's construction-related activities, including demolition of structures, site preparation, and grading could have potentially significant effects on special-status animal species that could be expected on the project site or using suitable habitat on-site. Implementation of the following measures would reduce these potentially significant effects to less-than-significant levels:

MM BIO-1: Special-Status Bats. Prior to the removal of mature trees or the demolition or renovation of structures, the measures outlined below should be performed.

- a. A pre-construction survey should be conducted by a qualified biologist to identify suitable bat roosting sites.
- b. Any trees or structures determined to support or potentially support maternal roosting sites may only be removed or demolished after coordination with the CDFW and/or the USFWS. Passive exclusion of roosting bats will be required and this may only be performed during the non-breeding season (i.e., between October 1 and March 30).
- c. Any trees or structures determined to provide suitable bat day or night roosting sites should be identified and marked on site plans. Such roosting sites include snags, rotten stumps, and decadent trees with broken limbs, exfoliating bark, cavities, openings leading to interior portions of any structures. If no suitable roost sites or evidence of bat roosting are identified, impact minimization measures are not warranted. If suitable roosting sites or evidence of bat roosting are identified, the following measures should be conducted:
 - i. A qualified biologist should survey suitable roost sites immediately prior to the removal or significant pruning of any of the larger trees, or demolition or significant renovation of any structures.
 - ii. If the project biologist identifies suitable day or night roost sites or evidence of bat occupation, the following steps should

be followed to discourage use of the sites by bats and to ensure that any bats present are able to safely relocate.

For trees:

- Tree limbs smaller than 7.6 cm (3 in) in diameter should be removed and any loose bark should be peeled away.
- Any competing limbs that provide shelter around the potential roost site should be removed to create as open of an area as possible.
- The tree should then be alone to allow any bats using the tree/snag to find another roost during their nocturnal activity period.
- The project biologist should re-survey the trees a second time 48 hours after trimming.
- If no bats are present, work may proceed.
- If bats remain on-site, additional measures would be prescribed by the biologist.

For structures:

- Depending on the location of potential roost sites and the nature of bat occupation, partial dismantling of a suspect structure may be performed to discourage use by bats. Partial dismantling may consist of the removal of siding, roof sections, and roof gables to permit air flow and exposure to sunlight. This work should be performed under the supervision and direction of a qualified biologist.
- The project biologist should re-survey the structures a second time 48 hours after performance of the partial dismantling work.
- If no bats are present, work may proceed.
- If bats remain on-site, additional measures would be prescribed by the biologist.

MM BIO-2: Special-Status Animal Species with Suitable Site Habitat. Prior to site preparation for project construction, including the removal of mature trees, demolition of structures, and grading, the measures outlined below should be performed.

For Pacific Pond Turtle:

- a. A pre-construction survey shall be conducted in the work area for the presence of pond turtles.
- b. The project plans shall include the installation of wildlife exclusion fencing to prevent pond turtles from entering the work area and thereby protected from harm.

- c. If a pond turtle is detected on-site, it may only be relocated by a qualified biologist. The biologist should make a record of the animal(s) and report his/her observations to the CDFW and the CNDDB.

For San Francisco Dusky-footed Woodrat:

- d. A pre-construction wildlife survey should be performed at the project site to search for woodrat nests. If no nests are detected, no further avoidance measures are warranted.
- e. If a woodrat nest is detected, it should be mapped in relation to the proposed limits of work. If the nest can be avoided, it should be isolated from the work zone by installation of wildlife exclusion fencing (WEF).
- f. If a woodrat nest is in the work zone and it cannot be avoided, site clearing should be performed during the non-breeding season (e.g., September 1 through November 30). During the non-breeding season, the nest should be disassembled by hand and the nest materials (e.g., sticks) removed and disposed of off-site. Any adult animals will be passively relocated into the adjacent woodland habitat. This work should be performed by a qualified biologist in coordination with the CDFW.
- g. If site clearing must proceed during the breeding season, it will be necessary to determine whether or not the nest is currently occupied. This may be done by direct observation over the course of at least two evenings no more than 48 hours prior to nest disassembly. Direct observation may consist of installation of wildlife cameras at the nest or by a biologist on the ground. If no animals are observed, the nest may be disassembled by hand. If, during the process of disassembling the nest, live animals are encountered, nest materials should be replaced on top of the nest and the effort abandoned. Nest may not be disassembled if young woodrats are present. Construction must then be postponed until the end of the breeding season. **Special-Status Bats.** Prior to the removal of mature trees or the demolition or renovation of structures, the measures outlined below should be performed.

C. Cultural Resources

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

SM CUL-1: The City will require monitoring of ground-disturbing activities for archaeological resources and the reporting of appropriate treatment and disposition of such resources that may be uncovered. In the event that undocumented human remains or unknown significant historic or archaeological resources are discovered, subsection B.2. of Section 18.75.110 provides a specific protocol for the treatment of the uncovered human remains and/or resources. The protocol entails the process of identifying the human remains and the contact of appropriate parties such as the Native American Heritage Commission and the Amah Mutsun Tribal

Band to determine Most Likely Descendant for further consultation on the disposition of the remains. As noted in the City's ordinance, the completion of the standard conditions of approval would reduce potentially significant impacts on archaeological resources to a less than significant level.

D. Geology and Soils

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

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

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

E. Hazards and Hazardous Materials

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

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

MM HAZ-2: Removal and Disposal of Existing Hazardous Materials. Removal and Disposal of Existing Hazardous Materials. Prior to demolition of the existing buildings at the project site, the project applicant shall retain a qualified and licensed contractor to complete the inspection of the project

site for potentially hazardous materials, and remove all hazardous materials (pesticides, fungicides, other agricultural chemicals, sealants, lubricants, antifreeze, paints, and others) as well as all fuel tanks and 55-gallon drums from the property, and legally dispose of these materials. Documentation of appropriate disposal shall be submitted to the City of Morgan Hill Community Development Agency Building Division prior to issuance of a demolition permit.

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

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

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

- a. The project applicant shall retain a qualified professional to update the environmental database review performed as part of the Phase 1 Environmental Site Assessment no more than 90 days prior to the start of construction. The qualified professional shall prepare a report summarizing the results of the environmental database review and assessing the potential for any identified chemical release sites to affect soil quality at the proposed project site. Appropriate soil analysis to evaluate the potential for soil contamination at the proposed project site, if needed, shall also be identified.
- b. The project applicant shall retain a qualified professional to conduct a soil quality investigation to assess the potential presence of pesticides and associated metals in the soil as well as the potential presence of any hazardous materials that may have been spilled. If the updated

environmental database review performed in accordance with HAZ-4a, above, identifies the need for additional sampling, it shall be included in this investigation. The qualified professional shall prepare a report summarizing the results of the soil investigation, including recommendations for site cleanup and disposal of excavated soil.

- c. The project applicant shall participate in the Voluntary Cleanup Program (VCP) administered by the Santa Clara County Department of Environmental Health (County) to develop the appropriate plan of action based on the results of the soil quality investigation conducted under HAZ-4b, above. If additional investigation or remediation is needed, the project applicant shall implement such action with oversight from the County, unless referred to an alternate agency.
- d. The applicant shall submit a “no further action” letter from the oversight agency or comparable closure document that demonstrates the site has been released as clean or a mitigation plan has been approved and implemented. Each phase of building permit issuance shall be contingent upon approval of the soil investigation and remediation documentation.
- e. If the soil investigation identifies soil requiring off-site disposal that is not suitable for unrestricted disposal, the project applicant shall require the construction contractor(s) to prepare a Soil Management Plan (SMP). The SMP shall provide a plan for disposal of identified hazardous soils and excess soil produced during construction activities, including the disposal methods for soil, potential disposal sites, and requirements for written documentation that the disposal site will accept the excess soil. If appropriate, excess soil may be disposed of on-site, under foundations or in other locations in accordance with applicable hazardous waste classifications and disposal regulations.

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

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

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

F. Hydrology and Water Quality

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

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

MM HYD-1: Properly Abandon Existing Wells. The project sponsor shall retain a licensed well driller to destruct or abandon the former irrigation well at the project site in accordance with the standards specified in Santa Clara Valley Water District Ordinance 90-1 and the California Water Well Standards developed by the California Department of Water Resources (http://www.water.ca.gov/groundwater/well_info_and_other/california_well_standards/well_standards_content.html). Documentation of appropriate disposal shall be submitted to the City of Morgan Hill Building Division prior to issuance of a demolition permit.

G. Noise

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

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

- Construct six-foot high acoustically-effective barriers at the rear yard of the lot at the southeasterly corner of the site to shield the area of the rear yard that is within 72 feet of the centerline of West Dunne Avenue (see Figure 1 of Attachment 5. The barrier height is in reference to the nearest building pad elevation. Since the precise location of the rear yard for this lot is not shown on project plans, the recommended barrier location is estimated.

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

MM NOI-2: Limit Vibratory Equipment Use. Prohibit operation of large vibratory compactors within 15 feet of adjacent structures or use smaller (jumping jack) vibratory compactors within 15 feet of project boundaries in order to maintain construction-related vibration levels below the 0.5 in/sec PPV threshold at adjacent structures.

MM NOI-3: Implement Construction Noise Controls. Quiet or "new technology" equipment should be used wherever feasible. The greatest potential for noise abatement of current equipment should be the quieting of exhaust noises by use of improved mufflers. Therefore, it is recommended that all internal combustion engines used at the project site be equipped with a type of muffler recommended by the vehicle manufacturer. In addition, all equipment should be in good mechanical condition so as to minimize noise created by faulty or poorly maintained engine, drive-train and other components. Construction noise should also be mitigated by the following measures:

- Noisy operations shall be scheduled for the daytime hours (7:00 a.m. to 8:00 p.m., Monday through Friday and 9:00 a.m. to 6:00 pm. on

Saturdays) in accordance with time limits specified in the City of Morgan Hill Zoning Ordinance.

- All diesel-powered equipment should be located more than 200 feet from any residence to the extent feasible if the equipment is to operate for more than several hours per day.
- Stockpiled materials should be located so that they can help block construction noise at nearby sensitive receptors.
- Noise reduction benefits could also be achieved by appropriate selection of equipment utilized for various operations (subject to equipment availability and cost considerations). The following measures are recommended to reduce noise impacts on nearby residents:
 - Earth Removal: Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.
 - Backfilling: Use a backhoe for backfilling, as it is less costly and quieter than either dozers or loaders.
 - Ground Preparation: Use a motor grader rather than a bulldozer for final grading.
 - Building Construction: Powers saws should be shielded or enclosed where practical to decrease noise emissions. Nail guns should be used where possible as they are less noisy than manual hammering.
 - Construction Phasing: Construct buildings or other significant structures at the site perimeter to help shield existing sensitive receptors from noise generated on the site.

III. FINDING

The City of Morgan Hill Community and Economic Development Director hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the initial study are included in the project.

Leslie Little
Assistant City Manager for Community Development

Date: _____