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City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

DEVELOPMENT
SERVICES
SEP 20 2016
CITY OF MORGAN HILL

Attention:
Planning Commissioners
Community Development Department
City Attorney, Donald Larkin
Public Works Director, Karl Bjarke
Senior Engineer, Scott Creer

Re:
Zoning Amendment, ZA-13-07/Subdivision, SD-13-08/Development Agreement, DA-13-05: W. Dunne-Gera
APN: 767-08-035 through 767-08-038

I am located at 70 West 5th Street, which is one of several parcels located along the rear of the above mentioned proposed project. This project should have never been before the Planning Commission on March 8, 2016 with the recommendation by staff to approve. Impact ratings in the Environmental Checklist Form were questionable given the facts presented in the reports. I commend the Planning Commission for not approving the project as proposed on that evening.

I presented my initial concern to the Planning Commission previous to the March 8, 2016 meeting. Since then, I have also been in communication with the developer regarding additional concerns I had with the project. I understand that the project developer has submitted a revision which will be brought before the Planning Commission on September 27, 2016. I therefore need to raise the following issues.

1. I do not believe the community development staff has assessed the project's potential environmental effects objectively. The project has many issues of significant concern and has "special needs" to be more thoroughly addressed. For example, located onsite, is an ephemeral stream (Little Llagas Creek) tributary to a listed 303 (D) impaired water of the US. In addition, it is recommended in the City of Morgan Hill's own documents to "avoid development in flood prone areas".
2. At the March 8th, 2016 planning commission meeting, commissioners and citizens/adjacent parcel owner raised several concerns. Most of these concerns have NOT been address in the proposed revision.
3. I have had two meetings with Nick Gera and Harry Guidott, Developer (Reliance Development, LLC), within the past several months. Voicing my concerns in regards to the land disturbing activities that have been conducted onsite and the possible ramifications if the hydrology of the sub basin is not addressed properly. (There is authorized storm water run-off the project property takes on from the adjacent properties). The figure of the proposed drainage provided on the original proposal is left out of this revision. This is VERY concerning.
4. The developer has commenced land disturbing activities. They have engaged in clearing, grubbing and grading. There are no SWPPS in place, no permits pulled, the NOI has not been filed and not one recommended professional was on site to have properly MITIGATED the developer's actions.

5. The tree removals have caused accelerated erosion. The quality of my life has already been effected with dust that has been blowing (saltation) through my parcel. I am highly concerned as no soils samples have been taken or analyzed for potential pesticides/hazardous materials as recommended in the reports.
6. Grade numbers were misrepresented on the originally proposed conceptual grading plan. Some were marked approximately three feet higher than true grade number to existing topography map/s on file with the City of Morgan Hill. These numbers are crucial as the development is on a flood plain. Had the project been approved in March, there could have been approximately an 8-foot difference between the original grade within my property boundaries and the finish floor on the project property in addition to the proposed 3 stories.
7. The lot lines/boundaries on the original proposal were not in agreement to the existing topography map/s on file with the City of Morgan Hill. I have raised this concern with the developer in our conversations and is therefore VERY concerning that the current revised proposal has excluded grade plans and lot lines.
8. Developer pushed up an earthen berm (control/diversion) illegally with a piece a construction equipment along the fence line of the property near my south easterly lot line. There is no other plausible reason for this other than to divert storm water run-on from my property. This issue combined with misrepresented grade numbers and a "wall" of buildings along the rear of my property raises the probability of encroachment and/or creation of flood on my property. A development, by law, cannot increase flood potential to my property, damage my property or victimize the public.
9. Three stories are still being proposed. There are no changes architecturally. The only change I see is one break in the "wall" of homes in the revised proposal. This is blatant disregard not only to the property owners that raised concerns about the architecture but to the planning commissioners, as they were adamant about seeing a change. This revised proposal, then again, raises questions with regard to windbreaks, trees and sunlight. I would like to see the proposed elevation measurements of the rear units. The "figures" referring to elevations do not show any measurements of elevations. This is VERY important to me.
10. It would have been convenient to see the revised development proposal highlighting the changes and/or omissions to the original proposed plan. This would have prevented me from having to go through the entire document again for review. It is quite disturbing to see that there are SO many inconsistencies. The revised proposal includes items and information from the previous versions and presents the old Draft Mitigated Negative Declaration. It is very difficult to discern the old information from the new information. Many of the figures shown throughout the proposal are not legible via computer or in print and are lacking legends for explanation. How can anyone challenge anything regarding this application if we can't make sense of it?
11. What is the purpose of adding the word "surface" to describe the "channel" on the property? (Page 31, paragraph 2, second line). This is so odd, it is concerning. What agency uses the term "surface channel" and what is the definition?
12. The City of Morgan Hill's Plan Specification Handout is not being adhered to with regard to this project. There are rules, regulation, guidelines, and codes in place to preside over developers. The City of Morgan Hill needs to do a better job reviewing true impacts instead of bending the rules to accommodate the developer.

It is the duty of Community Development staff to view the project first hand in its current condition. Developer, Nick Gera, has stated that he spoke with the City of Morgan Hill's Senior Engineer, Scott Creer, about my concerns. This should have been signaled a red flag to the City of Morgan Hill.

Someone needs to review this project with "clear eyes". Perhaps, Karl Bjarke needs to be more involved, especially since this project has a natural and beneficial floodplain value. He is not only the Flood Administrator, the Public Works Director and the City Engineer but also the LRP for the MS4 Phase II Permit.

The potential for me to be onboard with this project as a citizen and adjacent parcel owner is dismal given the current state of the project. I should not have to spend so much of my own time to review a project in order to protect my property from damage and myself from victimization. That is city staff's responsibility.

I have already invested too much of my valuable time trying to insure the City of Morgan Hill is doing its due diligence in protecting me from damage and victimization. The City of Morgan Hill has a fiduciary responsibility to protect me as a tax paying citizen. I now have many issues of trust with the Community Development Department. If I need to continue to "police" this project I will do so via my attorney and it will be at the City of Morgan Hill's expense from here forward.

In closing, I would like this letter publicly posted.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Grave", with a large, stylized flourish at the end.

Nicole Grave, Homeowner