

**RESOLUTION NO. 16-**

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF MORGAN HILL APPROVING A VESTING  
TENTATIVE SUBDIVISION MAP FOR A 5-LOT  
RESIDENTIAL SUBDIVISION WITH 1 OPEN SPACE LOT  
ON A 2.1 ACRE SITE LOCATED ON THE EAST SIDE OF  
WALNUT GROVE DRIVE, IN THE R-1 9,000 ZONING  
DISTRICT (APN 726-07-089, -023, -024)**

**WHEREAS**, such request was considered by the Planning Commission at its regular meeting of November 22, 2016, at which time the Planning Commission approved the subdivision application, SD16-02 Walnut Grove-Newland; and

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

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

- SECTION 1.** The approved project is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The Planning Commission of the City of Morgan Hill hereby finds that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the Resolution. The custodian of the documents or other material which constitute the record shall be the Community Development Department. The mitigation measures are identified in the set of standard conditions as contained in Exhibit A.
- SECTION 3** The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.
- SECTION 4.** The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as Exhibit "A", and by this reference incorporated herein.

**PASSED AND ADOPTED THIS 22nd DAY OF NOVEMBER 2016, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

**AYES: COMMISSIONERS:**

**NOES: COMMISSIONERS:**

**ABSTAIN: COMMISSIONERS:**

**ABSENT: COMMISSIONERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**JENNA LUNA, Deputy City Clerk**

\_\_\_\_\_  
**WAYNE TANDA, Chair**

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

We, \_\_\_\_\_, applicant(s), hereby agree to accept and abide by the terms and conditions specified in this resolution.

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

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

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

**APPLICATION: SD-16-02: Walnut Grove-Newland**

**THE FOLLOWING ARE CONDITIONS OF APPROVAL THAT MUST BE MET PRIOR RECORDATION OF THE FINAL MAP.**

**ACRONYMS:**

**MHMC** – Morgan Hill Municipal Code

**MHARH** – Morgan Hill Architectural Review Handbook

**EXHIBIT A**

**CONDITIONS OF APPROVAL**

**PLANNING DIVISION**

1. The Tentative Subdivision Map approval granted under this Resolution shall remain in effect for two years to November 22, 2018. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Planning Commission prior to the expiration date. (MHMC 17.20.170; 17.24.110)
2. **MAP APPROVAL:** The Tentative Map approval granted under this Resolution is for the tentative map documents date stamped [REDACTED], on file at the Community Development Department, entitled "Newland Homes Vesting Tentative Map". These documents, as amended by Design Review approval, show the location and sizes of all lots in this development, the location and dimensions of all vehicle and pedestrian circulation ways, landscape areas and other easement areas. The final map shall be in substantial compliance with the approved tentative map.
3. Recordation of a final map shall be in accordance with the number of building allotments granted through the Residential Development Control System (RDCS) for this project. Should a portion of the project's building allotment expire prior to final map approval, the number of lots on the final map shall be reduced to correspond to the remaining allotment. (MHMC 18.78.020)
4. **TREE ASSESSMENT:** Prior to recordation of the final map, Site Review approval shall be completed which shall include a detailed lot by lot assessment of trees to be retained as part of site development. Any significant tree (as defined by MHMC 18.32.020) removed as a result of the project will have to be mitigated with a replacement planting at a one to one ratio.
5. **TREE PROTECTION:** All trees in listed as fair or good condition shall be preserved to the greatest extent possible. Trees to be retained shall be protected using the following minimum protection measures (these guidelines shall be included with all site development plans):
  - i. Mark all trees to be saved with a survey flag or ribbon. Do not nail or staple directly to the tree.

- ii. Erect a temporary fence enclosing an area equal to at least the dripline of the tree (or as far from the trunk as possible). This tree protection zone shall not be used for parking, storage of building materials, or other equipment or the placement of temporary or permanent fill. Signs should be posted identifying the restriction of uses in the tree protection zone.
  - iii. Locate structures, grade changes, and other ground or surface disturbances (e.g. concrete pours) as far as feasible from the “dripline” area of the tree.
  - iv. Avoid root damage through grading, trenching, compaction, etc at least within an area 1.5 times the dripline area of the tree. Where root damage cannot be avoided, roots encountered over 1” in diameter should be exposed approximately 12” beyond the area to be disturbed (towards the 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 roots to remain.
  - v. The addition of plant or other landscaping materials shall remain outside of the dripline of all trees.
  - vi. Any tree subject to Chapter 12.32 Restrictions On Removal Of Significant Trees of the Morgan Hill Municipal Code requires approval from the Planning Division. The applicant shall request approval prior to removing any significant trees.
6. CC & RS: The applicant shall provide a set of Covenants, Conditions and Restrictions, Bylaws and Articles of Incorporation, for review and approval by the Community Development Department prior to final occupancy or recordation of the final map. All such CC&Rs shall include the following text:
- i. Common Areas/Right of Ways:
    - 1. The Owners recognize that the use, modification and proper maintenance of the Common Area and public right-of-way(s)\* are for the benefit of all citizens of the City of Morgan Hill (City) and that the City is an intended third party beneficiary of these covenants, conditions and restrictions and may, upon notice of hearing as set forth below, exercise the same powers of enforcement as the Association.
      - a. \*Public right-of-way: Exclusive of streets dedicated to and accepted by the City of Morgan Hill
    - 2. The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within thirty (30) days of the mailing or delivery of such notice, the City shall have standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys’ fees and costs incurred in such action.
    - 3. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a

lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association.

4. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
5. This section may not be amended without the prior written consent of the Director of Community Development for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
6. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance obligation or duty of maintenance is increased by such amendment.
  - ii. Tree and Landscape Preservation: The Owners of the Units and Association shall preserve and maintain all trees and landscape on the property originally required by the approved landscape plan and shall not remove or alter any such trees or landscape from the Property without the approval of the Director of Community Development of the City of Morgan Hill.
  - iii. Compliance with the City of Morgan Hill Conditions of Approval: It shall be the responsibility of each Owner and the Association to insure that any changes or modifications to the Project or any Unit are in compliance with the original City conditions of approval of the Project, which are hereby incorporated herein as if set forth in full.
7. FINAL PLANS: Final site development plans shall be reviewed and approved by the Community Development Agency prior to issuance of a building permit. All such plans shall include:
  - A. Detail depicting all concrete curbs as full formed. (MHMC 18.50.270)
  - B. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.
  - C. Any and all existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.
8. DUST, NOISE, VIBRATION, AND MATERIALS MANAGEMENT PLAN: A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.(MHMC 18.48.005)

The plan must include the following “Basic Construction Mitigation Measures” per Bay Area Air Quality Management District’s guidelines:

- i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- iii. 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.
- iv. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- v. 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.
- vi. 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.
- vii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
- viii. 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.
- ix. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
- x. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- xi. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- xii. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- xiii. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.

- xiv. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
  - xv. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
  - xvi. Minimizing the idling time of diesel powered construction equipment to two minutes.
  - xvii. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
  - xviii. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
  - xix. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
  - xx. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.
9. STREET NAMES: Street names, private or otherwise, used to identify building locations shall be submitted to the Planning Division for approval. Proposed street names shall comply with the Street Naming Policy approved by City Council. (Res No. 4601)
10. ON-SITE DRAINAGE AND RECREATION PARCELS: A note shall be placed on the final map which shall indicate that lot 19 labeled as "Parcel A-Open Space" shall be used for no purpose other than for on-site storm drainage facilities, project utilities and project access. All proposed trails, private open space and associated facilities shall be permanently secured with appropriate documentation [i.e., Deeds; Easements; Covenants, Conditions and Restrictions (CC&Rs), Dedication, Homeowners Association; etc.).
11. DEFENSE AND INDEMNITY: Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this subdivision application. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.

12. MITIGATION FEE ACT: Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun. This right to protest does not apply to voluntary Residential Development Control System fees.
13. SIGNED RESOLUTION REQUIRED: Submit two (2) signed copies of Approval Resolution No. 16- to the Planning Division prior to issuance of building permits.
14. SIGNED DEVELOPMENT AGREEMENT REQUIRED: Prior to approval of the final map, the property owner shall submit to the Planning Division two (2) signed notarized copies of the Development Agreement for the project.
15. RECORDATION OF MAP: The recordation of the final map shall not be completed until approval of the Design Review Permit is completed.
16. DESIGN PERMIT REQUIRED: Prior to approval of the final map, the project shall obtain Design Review approval of the project.
17. HABITAT PLAN
  - a. The approved project is covered under the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.
  - b. Prior to issuance of building permits or grading permits the project shall complete and submit a Habitat Plan Application Package. All fees must be paid prior to issuance building permits or grading permits. (MHMC 18.69.050)
  - c. Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt). (MHMC 18.69.040)
20. MITIGATION: The applicant shall be subject to compliance with the mitigation measures of the project's adopted Mitigated Negative Declaration. The following mitigation measures shall be included with all building permit, grading, or improvement plans.

## 1. Biological Resources

**MM BIO-1** A pre-construction survey shall be conducted by a qualified Burrowing Owl biologist no more than 30 days prior to initiation of any ground disturbing (construction) activity to assure take avoidance of burrowing owls. The survey shall consist of a habitat assessment, burrow survey, owl survey, and completion of a written report. The written report shall be submitted to the

Community Development Department. If owls are observed during the preconstruction survey, no impacts to the owls or their habitat will be allowed during the nesting season (February 1 to August 31).

- MM BIO-2** Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones, with a 250-foot radius from occupied burrows, shall be established. All development-related activities shall occur outside of the exclusion area until the young have fledged.
- MM BIO-3.** If pre-construction surveys are conducted during the non-breeding season (September 1 through January 31) and burrowing owls are observed on the site, the owls may be relocated upon approval by the California Department of Fish and Wildlife, in accordance with the Burrowing Owl Mitigation Plan.
- MM BIO-4** No later than submittal of the first construction or grading permit for the Newland Homes Tentative Map area, the owner or designee shall pay the Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the 2.1-acre site, as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.69.150 of the Morgan Hill Municipal Code. Similarly, no later than submittal of the first construction or grading permit for the southern 2.6-acre future development area, the applicant of such development shall pay the appropriate Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the 2.6-acre area, as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.69.150 of the Morgan Hill Municipal Code.
- MM BIO-5** If construction is proposed during breeding season (February 1 to August 31), a pre-construction nesting survey for raptors and other protected migratory birds shall be conducted by a qualified biologist and submitted to the City of Morgan Hill Community Development Department for review no more than 14 days prior to the start of construction. Pre-construction surveys during the non-breeding season (September 1 to January 31) are not necessary for birds, including roosting raptors, as they are expected to abandon their roosts during construction. If these species are deemed absent from the area, construction may occur within 14 days following the survey during the early nesting season (February to May) and within 30 days following the survey during the late nesting season (June to August).

If nesting raptors are detected on or adjacent to the site during the survey, a suitable construction-free buffer shall be established around all active nests. The precise dimension of the buffer (250-foot minimum for certain raptors) shall be determined by the qualified biologist at that time and may vary depending on location, topography, type of construction activity, and species. The buffer areas shall be enclosed with temporary fencing, and construction equipment and workers shall not enter the enclosed setback areas. Buffers shall remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents.

**MM BIO-6.** Prior to removal of any on-site trees, as defined in Section 12.32.020 of the City of Morgan Hill Municipal Code, the applicant shall obtain a tree removal permit from the City of Morgan Hill in accordance with the Municipal Code. A certified arborist shall identify the precise location, type, size, and health of each tree proposed for removal. All protected trees removed on-site, including trees that are fatally damaged as a result of project buildout, shall be subject to replacement plantings as determined by the City of Morgan Hill's Community Development Department.

For any subject trees that are not proposed for removal, prior to approval of Improvement Plans, the project applicant shall retain a certified arborist to prepare a tree protection plan, subject to review and approval by the Community Development Department. The plan shall demonstrate how any retained trees are to be protected during and after construction. The tree protection plan shall include, but not be limited to, the following:

- Locate structures, grade changes, etc. as far as feasible from the 'dripline' area of the tree.
- Avoid root damage through grading, trenching, compaction, etc. Where root damage cannot be avoided, roots encountered (over one-inch diameter) should be exposed beyond the area to be disturbed (towards tree stem), by appropriate methods, 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 outside/on 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.
- Mulch 'rooting' area with an acidic, organic compost or mulch.
- Arrange for periodic (biannual/quarterly) inspection of tree's condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.
- Individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or a more detailed specification than those contained within these general guidelines will be established in the tree preservation plan.

## **2. Hazards and Hazardous Materials**

**MM HAZ-1:** If any debris or stained soil is encountered within the soil stockpile during construction activities, the contractor shall contact the project applicant, who shall retain the services of a qualified environmental hazard firm, to evaluate the debris to determine whether it poses any environmental contamination risks. A written evaluation shall be submitted to the City of Morgan Hill Community Development Department. If the debris is trash or other non-hazardous material, then the contractor shall dispose of the debris and no further mitigation shall be required. If the debris is associated with signs of soil staining or odors indicative of hazardous materials, the project environmental professional shall obtain samples of the potentially impacted soil for analysis of the contaminants of concern and comparison with applicable regulatory residential screening levels (i.e., Environmental Screening Levels, California Human Health Screening Levels, Regional Screening Levels, etc.). Where the soil contaminant concentrations exceed the applicable regulatory residential screening levels, the impacted soil shall be excavated and disposed of offsite at a licensed landfill facility to the satisfaction of the Santa Clara County Environmental Health Department and the City of Morgan Hill.

**MM HAZ-2:** Prior to issuance of a grading permit, the applicant shall hire an Environmental Consultant to perform a Phase II Environmental Site Assessment (ESA) in order to determine whether pesticides are persistent in on-site soils. The soil analytical results shall be documented in the Phase II ESA report and submitted to the City Community Development Department. If the Phase II ESA determines that the on-site soils have not been impacted, further mitigation is not required.

If the Phase II ESA determines that on-site soils have been impacted, and contaminants are identified in excess of the California Human Health Screening Levels [CHHSLs] for residential land uses, the contaminated areas shall be remediated such that the resultant concentrations are below the CHHSLs for residential land uses. The Phase II ESA shall specify measures for the remediation of the soils, including proper removal and disposal procedures. The relative efficacy of potential removal technologies is dependent on subsurface conditions, including soil lithology, groundwater depth, and contaminant type/extent. Accordingly, several remediation options may be considered. For soil contamination, potential removal technologies could include, but would not necessarily be limited to, the following:

- Excavation and off-haul – Impacted soils are excavated until the excavation base and sidewalls do not exhibit impact above a specific screening level or cleanup goal. The excavated soils are transported and disposed of at an appropriate landfill facility.
- Bioremediation - Nutrients, oxygen, and biological cofactors are introduced to the soil (either in-place or post-excavation in a treatment area) to stimulate natural biological breakdown of the contaminants.

- Bioaugmentation – Similar to bioremediation, except that bioaugmentation involves the introduction of engineered microorganisms to the soil to degrade the contaminants.
- Soil vapor extraction (SVE) - Soil gas is extracted from the subsurface under vacuum and brought to the surface, where it is treated.

The project applicant shall comply with all recommendations of the Phase II ESA for review and approval by the Santa Clara County Department of Environmental Health and the City of Morgan Hill.

## **Noise**

### **Newland Homes Tentative Map Area and Future Development Area**

**MM NOI-1:** In conjunction with submittal of Improvement Plans, the applicant shall show on the Improvement Plans that a noise barrier shall be constructed along the project site's entire US 101 frontage sufficient to reduce noise levels to acceptable levels. If the sound wall is not constructed along the Future Development Area at this time, a sound fence shall be installed along the south side of the Newland Homes Tentative Map area as shown in Figure 9 of the Initial Study. The sound fence shall consist of 100% overlap on fence slats, which shall be screwed to the frame, not stapled or nailed.

The noise barrier(s) shall be a minimum height of six feet in order to reduce noise levels to acceptable levels; however, the specific height, design, and location of the noise barrier(s) shall be confirmed based upon the final approved site and grading plans to the satisfaction of the City Engineer. The Improvement Plans shall be subject to review and approval by the City Engineer.

**MM NOI-2:** In conjunction with submittal of building plans, the applicant shall show on the plans that mechanical ventilation (air conditioning) shall be provided for all residences to allow the occupants to close doors and windows as desired to achieve compliance with the applicable interior noise level criteria. The building plans shall be subject to review and approval by the City Building Division.

### **Newland Homes Tentative Map Area**

**MM NOI-3:** In conjunction with submittal of building plans for the Tentative Map area (i.e. APNs 726-07-024, -023, and -089) the applicant shall show on the plans that, for all of the proposed residences closest to US 101, all second-floor windows on the north, east, and south sides of the buildings shall have a minimum STC rating of 35, and all first-floor windows on the north, east, and south sides shall have a minimum STC rating of 32. The building plans shall be subject to review and approval by the City Building Division.

## **BUILDING DIVISION**

- A. Prior to recordation of the final map, a Civil Engineer licensed by the State of California shall validate with stamped plans and letter indicating the location and quantity of all imported soil. The letter shall also state the condition of the soil and ensure that any hazardous material regulated by the State of California or a Federal agency is below threshold limit concentrations set by the respective regulatory agency.

## **FIRE DEPARTMENT**

1. **Preliminary Review Only**, The requirements and conditions stated in this review are preliminary and are intended to be used for the purposes of project planning. An official Fire Department review of the project will be conducted upon receipt of a complete plan submittal application that clearly shows all intended grading, demolition, construction or building modifications.
2. **Automatic Fire Sprinkler System Required (SFD)**, New homes located within the hazardous fire area, and in the non hazardous fire area homes shall be protected throughout by an approved, automatic fire sprinkler system, hydraulically designed per National Fire Protection Association (NFPA) Standard #13D (**CFC Chapter 9 as amended by MHMC 15.44.170**)
3. **Fire Apparatus (Engine) Access Roads Required**, Prior to the commencement of combustible construction, an access roadway with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet, 6 inches shall be provided, with minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%, unless otherwise approved in writing by the Fire Marshal. Installations shall conform to the City of Morgan Hill Standard Details and Specifications 11-B. (**CFC section 503 as amended by MHMC 15.44.140**)
4. **Public Fire Hydrant(s) required**, Provide public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the City of Morgan Hill Public Works Department. Maximum hydrant spacing shall be 500 feet and the minimum single flow hydrant shall be 1000 GPM at 20 psi residual pressure. If fire hydrants are already in place, include civil drawings showing location of all hydrants with the building permit submittal. (**CFC 507**)
5. **Premises Identification**, Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background and be a minimum of four inches in height. (**CFC section 505**)
6. **Timing of Required Roadway Installations**, Prior to the commencement of combustible construction, the required roadway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the City of Morgan Hill unless otherwise approved in writing by the Fire Marshal. Bulk combustible construction materials shall not be delivered to the construction site until installations are completed as stated above. During

construction, emergency access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed. **(CFC Chapter 14 as amended by MHMC 15.44.180)**

## **PUBLIC WORKS DIVISION**

The following conditions shall apply to the project/application.

1. PRIOR TO SUBMITTING ANY IMPROVEMENTS PLANS, developer and project Engineer shall meet with Public Works Engineering Division to go over Measure C commitments to be addressed. Contact Scott Creer or Charlie Ha (408-778-6480) to schedule a pre-design meeting.
2. Project improvement plans shall address or satisfy all Measure C commitments prior to issuance of any development permit.
3. Along the existing Diana Avenue and Walnut Grove Drive frontage the existing street shall be reconstructed (gutter to gutter) to locate the crown of the road to match the new centerline; the new frontage top of curb elevations shall match the existing (opposite) top of curb elevations.
4. A Home Owners Association shall be formed for the maintenance of common areas.
5. The existing waterline shall be relocated into the proposed street pavement area at lot 5.
6. All retention/detention ponds shall be privately maintained by the HOA; provide LID calculation per the City Stormwater BMP manual to be included with the SWRMP.
7. At the corner of Diana and Walnut Grove, portions of proposed Lots 1 and 2 include real property owned by Tim Healey (APN 726-07-023) and Diana Estates (APN 726-07-024). Developer shall purchase said real property in fee prior to final map approval.
8. At 17380 Walnut Grove Drive (APN 726-08-069), developer shall coordinate directly with the owners, Nugyen/Ngo, on the reconfiguration of the property frontage along the proposed street and Walnut Grove Drive. Written agreement with regards to this frontage improvement shall be provided prior to approval of any permits, as these improvement shall be part of/accepted with the in tract improvements.
9. Open Space area adjacent to the U.S. 101 right of way shall be a separate Open Space parcel maintained by the HOA.
10. Public Works impact fees are required for this project and must be paid prior to occupancy of each unit.
11. At the proposed dead end street, a standard barricade shall be installed with signage stating that a future through street shall be installed; no fencing of any type shall be installed behind barricade.
12. At the proposed dead end street, a vehicle/emergency vehicle access (EVA) turn around shall be provided by one of the following options:
  - a. Option 1: Developer shall pursue to obtain a temporary vehicle/EVA turn around easement on the adjacent property to the south, until all avenues of this option is exhausted.
  - b. Option 2: If Option 1 cannot be achieved, a temporary asphalt paved vehicle/EVA turn around shall be reserved/constructed on LOT 1. The vehicle turn around area shall be striped and clearly marked as a NO PARKING AREA. An appropriate temporary easement dedication shall be shown on the final map, with the condition upon the development of the adjacent property to the south that the HOA shall install

the balance of street, curb, gutter and sidewalk at LOT 1 along the turn around's frontage.

**II. GENERAL**

- A. The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. **(MHMC 12.02.090 A; 17.32.010 A)**
- B. The applicant shall have a Final Map prepared by a registered engineer (licensed prior to 01/01/1982: registration number 33,965 or lower) or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be set as required by the Public Works Department. **(MHMC 17.20.200 A; 17.20.290; 17.24.010)**
- C. The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the Director of Public Works prior to submittal of Final Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**
- D. Obtain necessary encroachment permits from:
  - ☒ City of Morgan Hilland provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**
- E. Improvement plans are to show water lines, sanitary Sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- F. Enter into a
  - ☒ Subdivision Improvement Agreement (SIA)with the City of Morgan Hill to cover required improvements. **(MHMC 12.02.150; 17.32.010 B; 17.32.160)**
- G. Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved. **(MHMC 17.20.350 H)**
- H. **IMPACT FEE INCREASE**-The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established impact fees to finance the cost of improvements required by new development. City Code Chapter 3.56.050 provides for automatic annual (July 1<sup>st</sup>) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. The City Public Works Department maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours. **(MHMC 3.56.010; 3.56.030; 3.56.050)**

**III. STREET IMPROVEMENTS**

- A. The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall

be undertaken to the lines and grades and in a manner satisfactory to the Director of Public Works. All street improvements shall be constructed to the satisfaction of the Director of Public Works. The timing of the improvements will be determined by the City. **(MHMC 12.02.010; 12.02.090; 17.32.060 B; CMH General Plan; CMH Design Standards and Standard Details for Construction)**

- B. The project shall install and dedicate street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting in conformance with City of Morgan Hill requirements. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010; 17.32.060)**
- C. Dedication of a total of 30 feet from center line of public right-of-way on Walnut Grove and Diana. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.90; 12.02.100; 17.28.010)**
- D. Dedication of the required corner cutoff at the intersection of Walnut Grove and Diana. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010)**
- E. Underground existing utilities: all existing overhead utilities adjacent to any site boundary or along any street frontage of site shall be placed underground in accordance with City standards and affected utility company guidelines. **(MHMC 12.02.090 B; 17.32.020 E.1)**

#### **IV. SANITARY SEWER SYSTEM**

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

#### **V. STORM DRAIN SYSTEM**

- A. A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the Director of Public Works. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. **(MHMC 17.32.020 B; 17.32.090; CMH Design Standards and Standard Details for Construction)**
- B. The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Site Review plans. All storm drain improvements shall be constructed to the satisfaction of the Director of Public Works. **(MHMC 17.32.020 A & B)**

- C. Collection system shall be designed to be capable of handling a 10 year storm without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity. Streets shall be designed to carry a 100-year storm. Items of construction shall include, but not be limited to installation of storm line extension on proposed public street(s), surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre development flows. **(MHMC 17.32.020 B; 18.74.440; CMH Design Standards and Standard Details for Construction; CMH Storm Drainage System Master Plan)**
- D. Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the Director of Public Works.
  - 1. Storm drain calculations to determine detention/retention pond sizing and operations.
  - 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
  - 3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.**(CMH Design Standards and Standard Details for Construction)**
- E. Where the project adjoins existing Santa Clara Valley Water District storm drain facilities, applicant shall obtain dedication(s) of all necessary easement or right-of-way to accommodate established ultimate facilities master plan.
- F. As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number will be issued to the construction site after the SWRCB receives and verifies the submitted ONLINE NOI information. The WIDI number and approved SWPPP Manual shall be provided to Public Works and the Building Department prior to any approval of grading activities **(SWRCB NPDES General Permit CA000002).**

## VI. WATER SYSTEM

- A. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the Director of Public Works. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the Director of Public Works and dedicated to the City. **(MHMC 17.32.020 A & D; CMH Design Standards and Standard Details for Construction; CMH Water System Master Plan )**

- B. Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD) Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.
- C. Installation of water line extension on the proposed public streets and/or private streets. **(MHMC 17.32.020 A & D; CMH Water System Master Plan)**
- D. Provide separate water services and meters for each lot. These are to be installed by developer. **(MHMC 17.32.020 D)**

**VII. OTHER CONDITIONS**

- A. The final map on all major subdivision (5 or more lots) shall be approved by the City Council prior to issuance of a grading permit. For minor subdivision (4 lots or less), the final map shall be signed by the City Engineer and the Planning Commission Secretary prior to issuance of a grading permit. **(MHMC 17.20.390; 17.24.210)**
- B. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Homeowner's Association.
- C. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**
- D. Prior to the approval of any Building Permit for grading activity, the developer shall schedule a preconstruction meeting with the Public Works Inspection Division with the following project team members:
  - 1. Civil Engineer of record.
  - 2. Geotechnical Engineer of record.
  - 3. Third Party QSD/QSP SWPPP Inspector.
  - 4. General Contractor.
  - 5. Sub Contractors.
- E.