

RESOLUTION NO. 16--

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL ADOPTING A MITIGATED NEGATIVE DECLARATION PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE WALNUT GROVE-NEWLAND RESIDENTIAL PROJECT LOCATED AT THE EAST SIDE OF WALNUT GROVE DRIVE, SOUTH OF DIANA AVENUE AND WALNUT GROVE DRIVE (APN'S 726-07-089, 726-07-023, AND 726-07-024)

WHEREAS, prior to the adoption of this Resolution, the Planning Division of the City of Morgan Hill prepared an Initial Study and a Mitigated Negative Declaration for the Walnut-Grove-Newland project (Planning File No's. EA 16-02/SD 16-02/DA 16-01) in accordance with the requirements of the California Environmental Quality Act of 1970, as amended ("CEQA"), and state and local guidelines implementing CEQA; and

WHEREAS, the EA 16-02/SD16-02/DA 16-01: WALNUT GROVE-NEWLAND SUBDIVISION ("Project") analyzed under the Initial Study/Mitigated Negative Declaration consisted of the request to of the development of a vacant 4.7-acre site for residential purposes, in accordance with the Residential Detached Medium General Plan designation and R-1 9,000 zoning standards including a request for Development Agreement and vesting Tentative Subdivision Map, for 5 single family residential units on 2.1 acres; and

WHEREAS, in connection with the approval of a project involving the preparation of an Initial Study/Mitigated Negative declaration that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environment effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation; and

WHEREAS, the City of Morgan Hill is the lead agency on the Project, and the Planning Commission is the decision-making body for subdivision application SD 16-02: Walnut Grove-Newland; and

WHEREAS, the Planning Commission has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the Project are, by this reference, incorporated into this Resolution as if fully set forth herein; and

WHEREAS, the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL AS FOLLOWS:

SECTION 1. THAT THE PLANNING COMMISSION does hereby make the following findings:

- (1) It has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon the Project;
- (2) The Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and consistent with state and local guidelines implementing CEQA; and
- (3) The Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City as lead agency for the Project. The Community Development Director of the Community Development Department at 17575 Peak Avenue, Morgan Hill, California 95037, is the custodian of documents and records of proceedings on which this decision is based.

SECTION 2. THAT THE PLANNING COMMISSION does hereby adopt the Mitigation Monitoring and Reporting Program prepared for the Project. The Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Community Development Department, Planning Division, located at 17575 Peak Avenue, Morgan Hill CA 95037 and (2) available for inspection by any interested person.

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



PLANNING DIVISION

17575 Peak Avenue Morgan Hill CA 95037 (408) 778-6480 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Date: October 28, 2016

Application #s: SD 16-02; SR-16-10; EA-16-03

APN: 726-07-021, -023, -024, and -089

Project Title: Walnut Grove-Newland Subdivision

Project Location: The project site is located at the intersection of Diana Avenue and Walnut Grove Drive, immediately west of U.S. Highway 101 (US 101) in the City of Morgan Hill, California.

Project Proponent

Bryan Avilla
Newland Homes
3121 Michelson Drive, Suite 110
Irvine, CA 92612

Project Description: The project consists of the development of a vacant 4.7-acre site for residential purposes, in accordance with the Residential Detached Medium General Plan designation and R-1 9,000 zoning standards that establish a minimum lot size of 9,000 square feet for single-family homes and 4,200 square feet for duet units on corner lots. A Tentative Subdivision Map and a Site and Architectural Review application have been submitted by Newland Homes for the northern 2.1 acres of the project site.

The proposed project would include the subdivision of the northernmost 2.1 acres (APNs 726-07-023, -024, and -089) of the 4.7-acre site into five single-family lots and a designated remainder to be subdivided upon receiving Residential Development Control System (RDCS) allocation. Two of the five total units would be constructed as duet units, with lots ranging between approximately 5,000 and 7,000 square feet. The remaining lot sizes would range between approximately 9,000 and 11,600 square feet, with the largest lot containing an additional 600 square foot second dwelling unit. The proposed project would also involve the construction of sidewalks along the perimeter of the site and the extension of Diana Avenue along the northeastern/eastern portions of the tentative map area. The extension of Diana Avenue along the eastern boundary of the tentative map area would provide vehicular access to lots 1-5 and serve as a setback from US 101 for noise attenuation purposes.

The project would include connections to existing water and sewer infrastructure in surrounding roads, as well as installation of on-site storm drain lines, which would collect and route storm water runoff to a proposed bio swale/rain tank along the eastern boundary of the project site.

As part of the Initial Study that was prepared for the project, the development of additional residential units on the southern 2.6-acre future development area (APN 726-07-021) was also considered. The conceptual plan for the future development area indicates up to 10 additional lots. Therefore, the total development potential for the 4.7-acre project site is approximately 20 residential units.

The project requires the City's approval of the following entitlements:

- Adoption of an IS/MND and Mitigation Monitoring and Reporting Program.
- Approval of a Tentative Subdivision Map for APNs 726-07-023, -024, and -089 to subdivide the 2.1-acre property in accordance with the R-1-9,000 zoning district.
- Subsequent Design Review approval for residential development resulting in three or more units consistent with the Tentative Map and General Plan.

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

III. MITIGATION AND AVOIDANCE MEASURES

A. 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.

B. 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.*

Future Development Area

MM NOI-4 *In conjunction with submittal of building plans for residences on the 2.6-acre future development area (i.e. APN 726-07-021), the applicant shall show on the plans that the outdoor activity areas shall be located such that those areas shall be shielded in the direction of US 101 by the residential structure itself. The building plans shall be subject to review and approval by the City Building Division.*

MM NOI-5. *In conjunction with submittal of building plans for the future residences in the 2.6-acre future development area (i.e. APN 726-07-021), the applicant shall show on the plans that the first and second-floor window STC ratings for all windows on the north, east, and south sides of the buildings shall be designed in accordance with Table 9. The building plans shall be subject to review and approval by the City Building Division.*

Table 9 Required Window STC Ratings as a Function of Building Setbacks from Highway 101 Centerline		
Distance from Hwy 101 C/L to building facades (ft)¹	Required Window STC Rating²	
	1st Floor Facades³	Upper-Level Facades
150	32	37
170	32	37
190	32	35
210	32	35
230	32	35
250	32	35
270	32	35
290	27	32
310	27	32
330	27	32
350	27	32
370	27	32
Notes: ¹ Distance from said location to the centerline of Highway 101. ² The required STC ratings would provide an approximate 3 dB margin of safety relative to the City's 45 dB Ldn interior noise level standard and would only be required on the north, east, and south-facing facades of the future residences located in the southern section identified in Figure 9 of the Initial Study. <i>Source: Bollard Acoustical Consultants, Inc., 2016.</i>		

III. FINDING

The City of Morgan Hill 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 will reduce the impacts to a less-than-significant level.

Rich Buikema, Senior Planner

Date: _____

**MITIGATION MONITORING AND REPORTING PROGRAM
WALNUT GROVE/DIANA
SUBDIVISION PROJECT
MORGAN HILL, CALIFORNIA**

Prepared for the:



Community Development Department
17575 Peak Avenue
Morgan Hill, CA 95037
408.778.6480

Prepared by:

Raney Planning & Management, Inc.
1501 Sports Drive, Suite A
Sacramento, CA 95834

October 2016

MITIGATION MONITORING AND REPORTING PROGRAM

INTRODUCTION

The City of Morgan Hill, as Lead Agency under the California Environmental Quality Act (CEQA) and State CEQA Guidelines, has prepared the Final Mitigated Negative Declaration (MND) for the Walnut Grove/Diana Subdivision Project (Project). When a lead agency makes findings on significant effects identified in an MND, it must also adopt a program for reporting or monitoring mitigation measures that were adopted or made conditions of project approval (Public Resources Code [PRC] Section 21081.6[a]; State CEQA Guidelines Sections 15091[d], 15097).

This document represents the mitigation monitoring and reporting program (MMRP) prepared by the City of Morgan Hill for the Project. This MMRP includes all measures required to reduce potentially significant environmental impacts to a less-than-significant level. It also identifies the timing of implementation; the agency responsible for implementing the mitigation; and the agency responsible for monitoring the mitigation. The mitigation measures, timing, and responsibility are summarized in Table 1, and the full text of the mitigation measures follows. The implementation and monitoring of these mitigation measures in conjunction with the implementation of the City's Standard Measures required for such projects will ensure the reduction of potentially significant environmental effects to less than significant levels.

This MMRP has been prepared by the City of Morgan Hill, with technical assistance from Raney Planning & Management, Inc., an environmental consulting firm. Questions should be directed to Rich Buikema at the City of Morgan Hill.

Contact Information:

City of Morgan Hill
Community Planning Department
17575 Peak Avenue
Morgan Hill, CA 95037
408.778.6480

TABLE 1. MITIGATION MONITORING AND REPORTING PROGRAM – SUMMARY OF MITIGATION MEASURES

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility¹	Timing of Implementation
Prior to Construction			
BIO-1: A qualified Burrowing Owl biologist shall conduct a pre-construction survey no more than 30 days prior to initiation of any ground disturbing (construction) activity.	Project Applicant with Construction Contractor	City of Morgan Hill Community Development Department	No more than 30 days prior to the initiation of any ground disturbing (construction) activity
BIO-4: Pay the Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone, as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.69.150 of the Morgan Hill Municipal Code.	Project Applicant	City of Morgan Hill Community Development Department and Santa Clara Valley Habitat Plan	No later than submittal of the first construction or grading permit
BIO-5: During the breeding season, a qualified biologist shall conduct a pre-construction nesting survey for raptors and other protected migratory birds and submit survey results to the City of Morgan Hill Community Development Department for review no more than 14 days prior to the start of construction.	Project Applicant with Construction Contractor	City of Morgan Hill Community Development Department	If construction is proposed during breeding season (February 1 to August 31), then no more than 14 days prior to the start of construction
BIO-6: Prior to removal of any on-site trees the applicant shall obtain a tree removal permit from the City of Morgan Hill in accordance with the Municipal Code. For any subject trees that are not proposed for removal, the project applicant shall retain a certified arborist to prepare a tree protection plan, subject to review and approval by the Community Development Department.	Project Applicant with Construction Contractor	City of Morgan Hill Community Development Department	Prior to removal of any on-site trees, a tree removal permit shall be obtained For any trees that are not proposed for removal, a tree protection plan shall be prepared prior to approval of Improvement Plans and implemented during construction
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.	Project Applicant with Project Engineer	City of Morgan Hill Community Development Department and Santa Clara County Environmental Health Department	Prior to issuance of a grading permit
Newland Homes Tentative Map Area and Future Development Area	Project Applicant with Construction Contractor	City of Morgan Hill City Engineer	In conjunction with submittal of Improvement Plans

TABLE 1. MITIGATION MONITORING AND REPORTING PROGRAM – SUMMARY OF MITIGATION MEASURES

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility¹	Timing of Implementation
NOI-1: 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.			
Newland Homes Tentative Map Area and Future Development Area	Project Applicant	City of Morgan Hill Building Division	In conjunction with submittal of building plans
NOI-2: The applicant shall show on the building plans that mechanical ventilation (air conditioning) shall be provided for all residences.			
Newland Homes Tentative Map Area	Project Applicant	City of Morgan Hill Building Division	In conjunction with submittal of building plans
NOI-3: I The applicant shall show on the building 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.			
Future Development Area	Project Applicant	City of Morgan Hill Building Division	In conjunction with submittal of building plans
NOI-4: The applicant shall show on the building plans that the outdoor activity areas shall be located such that those areas shall be shielded in the direction of US 101 by the residential structure itself.			
Future Development Area	Project Applicant	City of Morgan Hill Building Division	In conjunction with submittal of building plans
NOI-5: The applicant shall show on the building plans for the future residences in the 2.6-acre future development area (i.e. APN 726-07-021), the first and second-floor window STC ratings for all windows on the north, east, and south sides of the buildings shall be designed in accordance with Table 9 of the Initial Study.			

TABLE 1. MITIGATION MONITORING AND REPORTING PROGRAM – SUMMARY OF MITIGATION MEASURES

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility¹	Timing of Implementation
During Construction			
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.	Project Applicant with Construction Contractor and City of Morgan Hill	City of Morgan Hill – Community Development Department	If burrowing owls are found on the site during the breeding season (February 1 through August 31)
BIO-3: If burrowing owls are observed on the site during the non-breeding season, the owls may be relocated upon approval by the California Department of Fish and Wildlife, in accordance with the Burrowing Owl Mitigation Plan.	Project Applicant with Construction Contractor	City of Morgan Hill Community Development Department	If burrowing owls are found on the site during the non-breeding season (September 1 through January 31)
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.	Project Applicant with Construction Contractor	City of Morgan Hill Community Development Department and Santa Clara County Environmental Health Department	While project is under construction.
¹ The City of Morgan Hill may hire a qualified contractor to conduct mitigation monitoring.			

BIOLOGICAL RESOURCES

The project's construction-related activities, including 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:** 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.

HAZARDS AND HAZARDOUS MATERIALS

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

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

The following mitigation measures will reduce potential noise impacts upon the project from existing and future surrounding noise sources that could occur on the project site.

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.

Future Development Area

MM NOI-4: In conjunction with submittal of building plans for residences on the 2.6-acre future development area (i.e. APN 726-07-021), the applicant shall show on the plans that the outdoor activity areas shall be located such that those areas shall be shielded in the direction of US 101 by the residential structure itself. The building plans shall be subject to review and approval by the City Building Division.

MM NOI-5: In conjunction with submittal of building plans for the future residences in the 2.6-acre future development area (i.e. APN 726-07-021), the applicant shall show on the plans that the first and second-floor window STC ratings for all windows on the north, east, and south sides of the buildings shall be designed in accordance with Table 9 of the Initial Study. The building plans shall be subject to review and approval by the City Building Division.

Table 9 Required Window STC Ratings as a Function of Building Setbacks from Highway 101 Centerline		
Distance from Hwy 101 C/L to building facades (ft)¹	Required Window STC Rating²	
	1st Floor Facades³	Upper-Level Facades
150	32	37
170	32	37
190	32	35
210	32	35
230	32	35
250	32	35
270	32	35
290	27	32
310	27	32
330	27	32
350	27	32
370	27	32
Notes: ³ Distance from said location to the centerline of Highway 101. ⁴ The required STC ratings would provide an approximate 3 dB margin of safety relative to the City's 45 dB Ldn interior noise level standard and would only be required on the north, east, and south-facing facades of the future residences located in the southern section identified in Figure 9 of the Project MND.		
<i>Source: Bollard Acoustical Consultants, Inc., 2016.</i>		

FINDING

The City of Morgan Hill Community 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.

XXX

Community Development Director

Date: _____