



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 (RDSCS) 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.*


Distance from Hwy 101 C/L to building facades (ft) ¹	Required Window STC Rating ²	
	1 st Floor Facades ³	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 L_{dn} 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.

Source: *Bollard Acoustical Consultants, Inc., 2016.*

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.


Terry Linder, Acting Planning
Manager

Date: 11/29/16