

Frequently Asked Questions (FAQ) about the Morgan Hill Technology Center/Park (Trammell Crow Project)

As of June 11, 2019

The City has received many questions regarding the proposed Morgan Hill Technology Park. To keep the community informed, we have created this FAQ which includes all questions received and answered by the City.

Questions/Answers from the Disaster101MH.com website

Many residents have submitted the same set of 7 questions that are also posed on the disaster101mh.com website. These questions are addressed first with the additional questions that have been received following.

- Q1:** Why did the city accept the developer's project application when it does not meet the city filing requirements?
- A:** The application was submitted in accordance with the City's submittal guidelines. The cover application (uniform application) was checked off with both "General Plan Amendment" and "Zoning Amendment" noting the Planned Development Combining District. Supplemental materials describing the project were also submitted.
- Q2:** Why is the project named "Morgan Hill Technology Park" when it is a distribution center with almost 200 truck bays?
- A:** The name of the project application, "Morgan Hill Technology Center", was determined by the applicant in their submittal. The name of the EIR was determined by staff as it includes a program level analysis of the residential portion of the project. Staff used the term "Park" to reference the difference between an industrial business park and the residential project. The project proposes uses consistent with the traditional Highway Commercial designation, with a range of retail, administrative, professional services and functions supporting freeway access being studied on the front portion of the site and flexible industrial and commercial uses, including advanced manufacturing, warehouse distribution, supporting office, and similar industrial and commercial uses on the remainder of the site.
- Q3:** Why were only 174 residences told about this project when the Planning Commission raised concerns 6 months ago, but the city later emailed 18,000+ residents to warn of "rumors" when the project was finally exposed on Nextdoor?
- A:** City municipal code requires notification to a 300-foot radius – in compliance with state law. After an application on the residential piece was considered by the

Planning Commission (PC) last year, the PC voted to request a 600-foot radius for future application notice in this area. The 600 foot radius doubles the radius required by state law and the City municipal code. Staff extended the 600 foot radius boundary slightly outwards and with the extension, 174 addresses were included. Additional upgraded noticing was also included – display ad instead of legal ad in the newspaper and on-site sign postings on all four sides of the property.

The City heard that the community would like broader noticing through a variety of channels for this project. Therefore, Morgan Hill established an e-blast contact list specifically for this project.

Q4: Why hasn't the false statement "commercial zoning allows warehouse and distribution" in the "detailed information about the MH technology park eir" document been corrected?

A: It is not a false statement. There are commercial zoning districts that do allow warehouse and distribution. The questions received by the community confused the difference between the General Plan and the Zoning Ordinance and this was our attempt to answer it. The info sheet is being expanded and revised to include all relevant zoning information. In this particular case, the existing zoning is not exclusively Commercial or Industrial – but rather the zoning requires a Planned Development overlay for the Highway Commercial and Light Industrial portions of the property which allows for customized zoning in these general categories.

Q5: What is the city's plan for conducting an independent, comprehensive economic impact analysis as done for other projects requesting general plan or zoning code changes?

A: In the recent past, the City has engaged an independent land use economics consultant to evaluate the economic and fiscal impacts of General Plan Amendments. The City intends to do the same with this project. In the past 5 years, the City has also conducted market analyses of the demands for certain uses in the community such as health care and hotels, or assessed, as in the case of the Health Services Needs Assessment prepared in 2015, the current voids in the Morgan Hill market in an effort to help attract those uses to the City.

The City is in the process of requesting a scope and cost for preparing an Economic Impact Analysis as desired by the Planning Commission at the Morgan Hill Technology Park Notice of Preparation of an EIR public scoping meeting. This consists of requesting proposals for price and terms from consultants. Consistent with City adopted purchasing guidelines, the contract would require approval from the City Council if over \$60,000.

Q6: Is there even one recent example where the city required major changes or rejected a project based on the EIR?

A: MH does not see a lot of projects that require Environmental Impact Report level CEQA review. The most recent denial of a General Plan Amendment (GPA) included a Mitigated Negative Declaration for CEQA documentation. GPA2018-0001, requesting an increase in residential density, appeared before the Planning Commission on September 25, 2018 and was recommended for denial. The item was appealed to City Council on February 6, 2019 and was denied.

Prior to that the City rejected conversion of one of the parcels desiring a change to residential from industrial in the 2012 GPA requests. The parcel is located at Butterfield and Sutter where the public storage facility is now located.

When an EIR comes to the decisionmakers, there are a number of options for the decisionmakers to consider: Certify the document as is, certify with changes (i.e. different alternatives), adopt overriding considerations. Below are some information points related to the Final EIR & EIR certification.

WHAT IS THE REQUIRED CONTENT FOR A FINAL EIR?

The required contents of a Final EIR are described in section 15132 of the State CEQA Guidelines. An overview of the contents of a Final EIR is presented below.

- *The Draft EIR or a revision of the Draft.*
- *Comments and recommendations received on the Draft EIR, either verbatim or in summary.*
- *A list of persons, organizations, and public agencies that commented on the Draft EIR.*
- *The responses of the Lead Agency (City) to significant environmental points raised in the review and consultation process.*
- *Any other information added by the Lead Agency.*

WHAT TYPE OF NOTICE IS REQUIRED FOR A FINAL EIR?

No specific public notice is required when a Final EIR is published, but the possible certification of a Final EIR is typically announced as part of the public hearing notice provided for the discretionary action(s) required for project approval. California Public Resources Code PRC § 21092.5 requires that written responses to the comments submitted by public agencies be provided to those agencies at least 10 days prior to certification of the Final EIR. This requirement can be satisfied by providing a copy of the Final EIR that includes the responses to public agency comments on the Draft EIR.

WHAT DOES IT MEAN TO CERTIFY A FINAL EIR?

Certification is an action taken by Lead Agency decision makers indicating that the Final EIR has satisfied CEQA's requirements.

WHEN DOES A FINAL EIR GET CERTIFIED?

The Lead Agency must certify the Final EIR before approving the project for which the EIR was prepared. The Final EIR does not need to be certified prior to taking action to deny the project. (State CEQA Guidelines § 15090)

After considering the Final EIR, the Lead Agency may decide whether or how to approve or carry out a project. A Lead Agency may approve a project with significant environmental effects based on a fully informed and publicly disclosed decision that:

- There is no feasible way to lessen or avoid the significant effects according to the Lead Agency's findings prepared according to State CEQA Guidelines § 15091; and*
- The specifically identified benefits of the project outweigh the benefits of reducing or avoiding such environmental impacts as described in the statement of overriding considerations required by State CEQA Guidelines § 15093.*

WHO MUST CERTIFY THE FINAL EIR?

The Final EIR must be certified by Lead Agency decision makers before taking any action to approve the proposed project.

DOES A FINAL EIR NEED TO BE CERTIFIED AT A PUBLIC HEARING?

No. The Lead Agency must certify the Final EIR before approving the project, but there is no requirement that certification occur during a public hearing.

IS THE LEAD AGENCY REQUIRED TO ADOPT THE ENVIRONMENTALLY SUPERIOR ALTERNATIVE?

No, but an explanation of the rationale for not selecting this alternative should be described in the EIR findings prepared for project approval. (State CEQA Guidelines § 15091(a))

CAN A PROJECT BE APPROVED IF THE FINAL EIR INDICATES THAT IT WOULD HAVE SIGNIFICANT AND UNAVOIDABLE IMPACTS?

Yes, but the Lead Agency must prepare a statement of overriding considerations stating the reasons for approving the project despite its significant and unavoidable impacts. The statement of overriding considerations reflects the ultimate balancing of competing public objectives (including environmental, legal, technical, social, and economic factors). The statement must:

- Be in writing,*
- State specific reasons supporting agency actions based on the Final EIR or other substantial evidence in the record, and*
- Be mentioned in the Notice of Determination (NOD).*

Q7: Why is the Traffic Impact Analysis using a model that would drastically underestimate traffic this project will generate?

A: The TIA is using a model that reflects the project assumed under this application. Any project approval under the EIR (if certified) must adhere to the traffic generation modeled in the EIR. There is no bait and switch with traffic analysis. If you don't study the proposed traffic generation for a particular use, that use cannot be approved within the project.

What is the Trammell Crow Project?

The Trammell Crow Project is an alternate name for a proposed development project called the Morgan Hill Technology Park. It is also sometimes referred to as the Morgan Hill Technology Park & Mixed-Use Residential Project EIR. It is a proposed project bordering the east side of Highway 101 south of Cochrane Road, precipitated by the January 2019 sale of 60 acres of land to the Trammel Crow Company, and the availability of an additional 30-acre residential parcel that is for sale, by current owner Llagas LLC. As with any private property transaction, the City neither controls nor participates in any part of the sale process.

The property in question is currently zoned residential, commercial, and industrial in almost equal parts. An application has been filed on 60 acres of the property owned by Trammell Crow who is proposing to limit certain commercial uses and expand industrial, research and development (R&D) and manufacturing uses to a majority of the 60 acres. Industrial zoning allows uses such as R&D and advanced manufacturing, while commercial zoning does not.

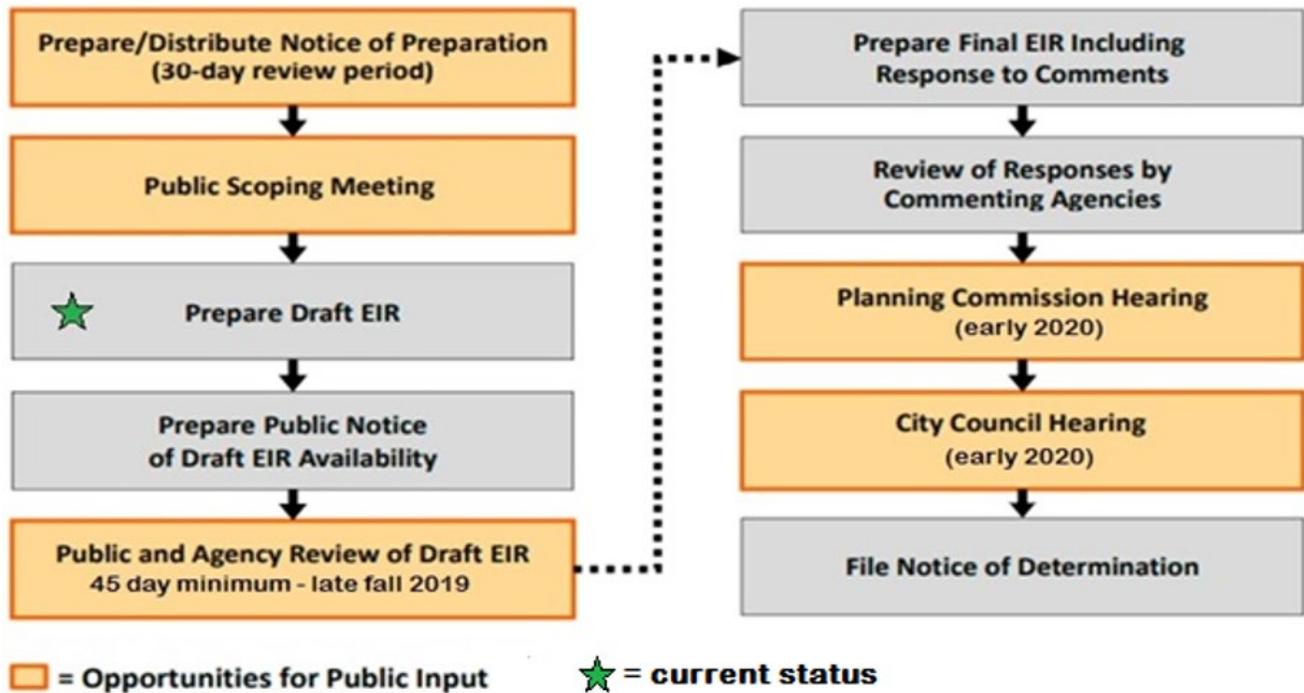
What is the normal process for a development proposal like this?

Any development proposal follows a multi-step process. Every project proposal follows a process guided by local and state laws and requirements, including the California Environmental Quality Act (CEQA). There is nothing that can prevent a proposal from being brought forth by any property owner who has the right to use their land as guaranteed by the constitution of the United States. The public may not remove that right without a public purpose and without just compensation. A City may however regulate uses in conformance with its own General Plan and zoning. No decisions are preliminarily and/or summarily made by any person, company, agency, or group without thorough review and compliance to local and state laws and requirements.

The process begins with property ownership, followed by:

- A property owner completes a uniform application that indicates what the applicant is applying for and provides supplemental information that outlines many aspects of the proposed development project. The City uses this information to determine the level of environmental review required.
- If an EIR is required in compliance with the California Environmental Quality Act (CEQA) the City prepares and distributes a Notice of Preparation (NOP), which triggers multiple reviews, each with timelines and requirements, some of which are mandated at the State level.
- Multiple subsequent steps include public input, community review, and documentation requirements fulfilled by the City, the developer, and outside agencies who are affected by the process.

The entire process summarized:



How can residents participate in the process?

Residents' comments and opinions are invited and sought throughout the proposal process. A development proposal process includes multiple time periods for public, two-way communication, and examples of those time periods are marked in orange in the above graphic.

Because of community interest in the Trammell Crow Project, the proposal process is contemplated to include additional public meetings and communication efforts beyond mandated minimums in the development proposal/review process.

There are multiple ways to find out about the proposal's status. Please visit

- Q:** How will this proposed development project impact existing residents with the addition of possibly 250 houses, plus the possibility of many workers and trucks going in and out?
- A:** A traffic study will be prepared as part of the Environmental Impact Report (EIR) required by the California Environmental Quality Act (CEQA). It will examine and analyze the impact of all the potential uses in the project on the City and regional transportation network as well as the impact on residential areas. There is reference material titled 'Scope of Work to Prepare a Traffic Impact Analysis for the Proposed Trammell Crow Morgan Hill Technology Center and Residential Development in Morgan Hill, California' which details the work plan for the traffic

study. It is available on the City website here:

<http://www.morganhill.ca.gov/DocumentCenter/View/28176/Final-Transportation-Scope-of-Work-3-29-19?bidId=>

Environmental Impact Report (EIR)

The EIR includes a project description, a description of the environmental setting, and researches effects, impacts, and alternatives for the project proposal. Once a Draft EIR (DEIR) is compiled, it is circulated to public agencies and interested parties, a public notice of the DEIR is published and mailed and a public meeting scheduled, to review the document and receive input.

Q: Will the traffic study portion of the EIR be based on the current build out of the area off the east Cochrane corridor, or on full build out plans in the future?

A: The EIR is required to evaluate cumulative impacts. This means that not only does it look at the impact of the proposed project now, but also reviews it combined with all known development planned in the area. There are six scenarios listed in the scope of work for the traffic study that will be analyzed:

Scenario 1: Existing Conditions. Existing conditions will represent existing (2018-2019) peak-hour traffic volumes on the existing roadway network. Existing traffic volumes will be obtained from new traffic counts and recently completed traffic studies.

Scenario 2: Existing Plus Project Conditions. Project-generated traffic volumes were added to existing traffic volumes to estimate existing plus project conditions. Existing plus Project conditions are evaluated relative to existing conditions in order to determine potential project impacts.

Scenario 3: Year 2030 Conditions. Year 2030 conditions will represent traffic growth projected to occur by the Year 2030 without the proposed project on the existing transportation network. Projected 2030 traffic growth will be developed by interpolating the projected Year 2035 traffic growth.

Scenario 4: Year 2030 with Project Conditions. Year 2030 with project conditions will consist of Year 2030 traffic conditions with the addition of project traffic associated with an anticipated 10- year build plan for the industrial/commercial component of the site.

Scenario 5: Year 2035 General Plan No Project Conditions. Year 2035 General Plan No Project conditions represent future traffic volumes on the future transportation network. Year 2035 General Plan No Project

conditions includes land use growth and transportation improvements associated with buildout of the City's General Plan.

Scenario 6: Year 2035 General Plan Amendment with Project Conditions. Year 2035 General Plan with Project conditions consist of Year 2035 General Plan traffic conditions with the addition of the additional traffic due to the proposed land use amendment for the project site.

What is the local government's role?

The City is committed to a proposal process that is thorough, upholds all parties' legal rights, adheres strictly to local and state laws and requirements, and includes frequent and wide-spread public communication.

Q: Can elected officials vote however they want – for or against – after all proposal processes are completed?

A: At the appropriate time in the proposal process, City Council members will be asked to make an informed decision about the project. They may not comment on or participate in discussions that make clear their own personal opinions without running the risk of requiring recusal at the time of the Council hearing and final determination.

In order to vote for or against any proposed project, the Council members need to provide reasons why a choice is made. The reason(s) given are called the findings. Findings need to be stated by the body when taking action on the application. Findings are listed below for General Plan and Planned Development amendments.

1. General Plan Amendments require a consistency finding that the proposed change to text or graphic is consistent with the other elements of the General Plan.
2. 18.30.050 Planned Development Combining Districts
7. Findings. The city council may approve an application for a proposed development master plan if all the following findings are made:
 - a. The proposed development is consistent with the general plan, zoning code and any applicable specific plan or area plan adopted by the city council.
 - b. The proposed development is superior to the development that could occur under the standards applicable in the existing zoning districts.

- c. The proposed project will provide a substantial public benefit as defined in Paragraph 8 (Substantial Public Benefit Defined) below. The public benefit provided shall be of sufficient value as determined by the planning commission to justify deviation from the standards of the zoning district that currently applies to the property.
- d. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.
- e. Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.
- f. The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area.
- g. Findings required for the concurrent approval of a zoning map amendment can be made.

Q: Who approves re-zoning?

A: For any zoning request, the City of Morgan Hill's Planning Commission makes a recommendation to the City Council at a public hearing that will be noticed through multiple communication vehicles. Subsequently, the City Council is the final decision maker.

References:

Planning Commission: <http://www.morgan-hill.ca.gov/569/Planning-Commission>

City Council: <http://www.morgan-hill.ca.gov/147/City-Council>

Q: When something is passed by City Council, such as a zoning amendment request, and becomes an ordinance, how is the ordinance number assigned? Is it arbitrary, sequential, or somehow related to the original amendment number?

A: Ordinances and Resolutions are adopted by City Council in numerical order. Ordinances become a part of the City's Municipal Code, Resolutions do not. Therefore, Ordinances are less common than Resolutions. Resolutions are also used by other Boards and Commissions. Ordinance and resolution numbers start with the year, followed by the next number in order for that calendar year.

Q: What is the definition of an entitlement process?

A: The entitlement process is defined by a formal application to utilize land, but leading up to the formal entitlement application the land owner or the potential buyer and/or developer researches the parcel boundaries and current zoning uses, and generally performs many engineering, survey and environmental review activities related to the land. In addition, they research utilities, roadways, and technology infrastructure, all normally referred to as their “due diligence”. Depending upon the size, age, resources of the developer or availability of information available regarding the property, this due diligence may take many months. The entitlement process is often called the permitting process but permitting often also includes construction plans and building permits. The term entitlement process comes from the land use entitlements or approvals that are needed to continue through the permitting process. As with any applicant for any building or business, the staff of the Development Services and the Engineering and Utility Departments respond to requests for information regarding land and land use, and spend time explaining requirements of the municipal code, general plan, and master plans, development fees, how the permitting process, including how an environmental review works, expected timelines, and other proposed project considerations. All this information is required of the due diligence process.

Book Reference: William Fulton “The Guide to California Planning”

There is also a free book published by the Institute for Local Government. It is from 2010, but the basic rules still apply:

https://www.ca-ilg.org/sites/main/files/file-attachments/2010_-_landuseplanning.pdf

Morgan Hill Zoning & Zoning History

Q: Regarding the Zoning History presented in slide number 2 from the May 21 Community Meeting: 1990 Annexation Approved - Zoned Campus Industrial (MC), [now (IC)] 2001: Rezoned from PUD(CH) Highway Commercial to PUD Light Industrial (ML), [now (IL)]. When / how did it go from MC to PUD (CH)? Sometime between 1990 and 2001?

A: In 1995, it was revised from Campus Industrial to PUD (CH) Highway Commercial. The only gap in the timeline is the interval between 1990 when the industrial parcels were zoned Campus Industrial and then later amended to Highway Commercial (PUD). In 2001, the subject parcels were rezoned from Highway Commercial to Light Industrial.

With the exception of APN 728-30-003 & 004, when the zoning was amended in 2018 from R-2 with a planned development overlay limited to Senior Assisted Living to RAL 3,500 (Residential Attached low), the present zoning configuration on the remaining parcels has remained the same since June 2001.

- Q:** Is there material that specifically shows any recent or planned meetings, proposals, actions, discussions regarding the zoning and land use designation on the property?
- A:** There has been one action in the past 24 months related to zoning/land use on the overall site. This action removed a Planned Development Overlay on a portion of the Residential 30 acres that returned the zoning to the original base zoning for the site which is RAL (Residential Attached Low). The previous Planning Development Overlay limited development to a skilled nursing facility. The information regarding the meeting when the land use was changed can be found here:
http://morganhillca.igam2.com/Citizens/Detail_LegiFile.aspx?Frame=None&MeetingID=1746&MediaPosition=11748.311&ID=2051&CssClass=
- Q:** Does the City's Development Office have ability to search older records from both the City Council and Planning Commission to locate the agenda items associated with rezoning actions taken in 2001 and 1991?
- A:** Research takes some time, but there are digital records available. The complete zoning change is detailed above. When the digital record is not complete or those records are not readily available in the City's electronic database, it may be that only the surviving legal documents (Ordinance) remain. The City would have to search off-site physical records to determine if minutes or documents associated with the actions taken in those years still exist.

Public Records & Documentation

- Q:** For the Trammell Crow Project, an initial development partnership went into contract to purchase the property in mid-2018, but fell out of contract in late 2018. Is any of that documentation available through a public record request?
- A:** Contracts to purchase property are between the developer and the seller. The City heard from more than one developer that they were researching the property with the intent to negotiate a Memorandum of Understanding (MOU), a Letter of Interest (LOI) or a purchase contract. The City does not have any of that information. No other developer filed any application or opened a case file with the City. While the City does meet with individual developers or their architect/engineer representatives as they go through their due diligence to provide information on the entitlement process, the developer may mention whether or not they are in contract, and the status of ownership. But this is hearsay until it is confirmed with ownership or through application. Often times the City is the last to hear from the property owner that a particular entity has fallen out of contract, or the developer may let the City know that they are no longer working with the property owner.

Q: Regarding <https://morganhill.trakit.net/TRAKiT9/Attachments/PROJECTS/GPA2019-0002/Application.pdf>

Is the 'Trammell Crow' Uniform Application (file no. ZA2019-0005) received by the city on January 29, 2019, from applicant Jun Lee actually for the General Plan Amendment that has now become 'embedded' in the "Notice of Preparation for an Environmental Impact Report for the Proposed Morgan Hill Technology and Mixed-Use Residential Project"?

A: An application of any kind kicks off the environmental process. In this case, the applicant submitted the Uniform Application and required supplemental documentation to prepare the Notice of Preparation for the Environmental Impact Report.

Q: If so, does that mean the Uniform Application was accepted under the "City of Morgan Hill Filing Requirements for General Plan Amendment"?

A: The Uniform Application is the Cover Application where an applicant checks off what they are applying for and then supplies the relevant supplemental information under the chosen amendment/permit they wish to obtain.

Timeline for the Trammell Crow Project

Q: When will Trammell Crow have to or is expected to submit the Master Plan associated with the Planned Development Combining District?

A: The first iteration of the Master Plan will come forward for the Preliminary Plan Review at a Planning Commission public meeting. This is in addition to the Uses and Development Standards text.

Q: Will this project, if approved per the developer's proposal, build out in phases, such as one building at a time?

A: The developer has indicated interest in building all three buildings at once, but generally the market determines buildout. Economic Development Director Edith Ramirez spoke at the end of the meeting regarding the high demand for industrial buildings in Silicon Valley and that the City's industrial vacancy rate fluctuates between 1-3%. She also mentioned that there is no significant building inventory for companies to expand and grow into in the City.

The Developer & The Property

Q: Has, or will, the developer ask for a variance from the city codes to allow for after-hours operations?

A: The developer has not, and the City does not know if the developer will make such a request. It is too early in the process for the applicant to discuss operational standards that may include topics such as after-hours operation. As the process moves forward, and as the framework for the Planned Development zoning district required for the site is developed, and uses are determined, operational standards for the site will be proposed.

Q: Why there is still a "For Sale" sign on the property and not a "Proposed Development" sign?

A: There are both "Proposed Development" and "For Sale" signs on the property because the residential portion (30 acres) of the property has not sold yet. The City has heard that there is a potential residential developer in discussions with the property owner for the remaining 30 acres of land, but, at this time, the property has not yet changed hands. Similar to a previous response, the City still responds to inquiries from parties interested in exploring the acquisition of the remaining acreage.

There are "Proposed Development" signs posted on all four sides of the site: Cochrane, DePaul, Half and the trail along 101.

Q: Who will be the tenants in whatever type of structure is built?

A: Business parks primarily develop in two different ways. The "build to suit" method is how much of Morgan Hill's business/industrial park property has developed. When visiting Morgan Hill Ranch and Madrone Business Parks, it is possible to see how each business developed its properties in its own way, but in accordance with common restrictions and design guidelines for the buildings and common areas. The original developers have helped guide the "build out" for many years.

There is also the "speculative development" method. This term is used when the end users or tenants of the project are unknown, but the developer is nonetheless confident that the market is strong and they will be able to find tenants, and that the type of project they are undertaking will be suitable and adaptable - very similar to building a retail shopping mall. This is in contrast to build to suit/custom building, when a developer/builder is contracted for a specific project by a client who is able to tell the builder what they want.

Speculative development allows the City to address the design of a project as a whole and often results in a more cohesive appearance and interior circulation. Space is often built as "flex space" - enabling potential tenants to buy/lease a whole building or a portion of a building.

Q: Has the City received an application regarding the residential section of the property?

A: There is a residential development control system (RDCCS) application for the residential portion signed by the property owner and submitted by a previous developer not now associated with the property acquisition. This application has been submitted in an attempt to secure RDCCS allocations. It is not considered an entitlement and is a precursor to the residential development entitlement/permit process created through the City voter-approved Measure S.