



**PLANNING DIVISION**

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**MITIGATED NEGATIVE DECLARATION**

**I. DESCRIPTION OF PROJECT:**

**Date:** May 6, 2020  
**APN:** 773-32-013

**Application #s:** SR2018-0025; AAE2020-0001

**Project Title:** Llagas - Stralata Project

**Project Location:** 1110 Llagas Road  
Morgan Hill, CA 95037

**Project Proponent:** Paul Latala  
Latala Homes  
1999 South Bascom Avenue, Suite 700  
Campbell, CA 95008  
(408) 505-9205

**Project Description:** The proposed project would include a Design Permit and Amended Tentative Map to add a fourth lot into an approved three lot residential subdivision along Sabini Court. The project would be developed consistent with the site's General Plan land use and zoning designations.

The approved lots, ranging from 43,560 to 44,867 square feet (sf), would be accessed by a central drive aisle called Rose Orchard Lane. Rose Orchard Lane would be 28 feet wide, and would connect to Sabini Court. The proposed residential units would be between 5,400 and 6,200 sf and would each include a driveway from Rose Orchard Lane. The Tentative Map also includes right-of-way dedication of approximately 22,700 sf for future access improvements along Sabini Court, as well as 16-foot right-of-way vacation by the City of Morgan Hill along the project frontage on the northern edge of Sabini Court.

Water and sewer service for the proposed development would be provided by the City through new connections to an existing eight-inch water line in Sabini Court and an existing six-inch sewer line in Sabini Court, respectively. Stormwater would be collected and transported, by way of gutters and earth swales, into one of five proposed bioretention basins that would treat and detain all on-site runoff.

The proposed project would require the following City approvals:

- Adoption of the Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program;
- Approval of an Amended Tentative Map for APN 773-32-013;
- Design Review Permit; and

- Vacation of the 16-foot right-of-way along Sabini Court.

## 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

#### *Special-Status and Migratory Birds*

IV-1(a). *If demolition, site clearing, grading or tree removal or pruning are to be conducted during the breeding season (i.e., February 1 through August 31), a preconstruction nesting bird survey shall be conducted. The survey shall be performed by a qualified biologist no more than two weeks prior to the initiation of work. If nesting or breeding activity is not observed, further action is not required and work may proceed without restrictions. To the extent allowed by access, all active nests identified within 300 feet for raptors and 100 feet for passerines shall be mapped. All survey results shall be submitted to the City of Morgan Hill Development Services Department prior to the start of construction.*

*If demolition, site clearing, grading or tree removal or pruning are to be conducted outside of the breeding season (i.e., September 1 through January 31), preconstruction surveys for nesting migratory birds are not necessary.*

IV-1(b). *If any active nests are located within the study area, an appropriate buffer zone shall be established around the nests, as determined by the project biologist. The biologist shall mark the buffer zone with construction tape or pin flags and maintain the buffer zone until the end of breeding season or the young have successfully fledged. Buffer zones are typically between 100 feet and 250 feet for migratory bird nests and between 250 feet and 500 feet for a raptor nest. If active nests are found within the project footprint, a qualified biologist shall monitor nests daily for a minimum of five days during construction to evaluate potential nesting disturbance by construction activities. If construction activities cause the nesting bird(s) to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then an exclusionary buffer shall be increased, as determined by the qualified biologist, such that activities are far enough from the nest to stop the agitated behavior. The exclusionary buffer shall remain in place until the chicks have fledged or as otherwise determined by a qualified biologist.*

*Special-Status Bats*

IV-2. *Prior to the removal or pruning of mature trees, or the commencement of construction activities within 100 feet of mature trees, the following avoidance measures shall be performed:*

1. *Bat Habitat Assessment. If work is to take place during the bat breeding season (April 1 through August 31), a qualified biologist shall conduct a survey of the project site and vicinity to determine if active maternity roosts are present. The survey shall be conducted no more than 14 days prior to the initiation of work. All survey results shall be submitted to the City of Morgan Hill Development Services Department prior to the start of construction.*
2. *Maternal Roosts. If any trees are determined to support or potentially support maternal bat roosts, work may not proceed if the work would destroy or disrupt breeding. Maternal bat roosts may only be removed or demolished after coordination with the CDFW and/or USFWS. Passive exclusion of roosting bats would be required and may only be performed during the non-breeding season (i.e., between October 1 and March 30).*
3. *Preconstruction Survey. A preconstruction survey shall be conducted by a qualified biologist to identify suitable bat roosting sites. The survey shall be performed no more than 48 hours prior to the initiation of work. The study area shall include an area extending up to 100 feet of the limits of work, access permitting. All survey results shall be submitted to the City of Morgan Hill Development Services Department prior to the start of construction.*
4. *Protocol for Observations of Live Bats. If live bats are detected in the work area, work shall not proceed until CDFW has been consulted. The project contractor or others shall not attempt to disturb (e.g., shake, prod) roosting features to coax bats to leave. Such actions would constitute “harassment” under the California Code of Regulations (CCR).*
5. *Day or Night Roosts. Any trees determined to provide suitable day or night roosting sites for bats shall be identified and marked on site plans. Such roosting sites include snags, rotten stumps, and decadent trees with broken limbs, exfoliating bark, cavities, and openings leading to interior portions of any structures. If suitable roost sites or evidence of bat roosting are not identified, impact minimization measures are not warranted. If suitable roosting sites or evidence of bat roosting are identified, the following measures shall be conducted:*
  - a. *A qualified biologist shall survey suitable roost sites immediately prior to the removal or significant pruning of any of the larger trees.*
  - b. *If the project biologist identifies suitable day or night roost sites or evidence of bat occupation, the following steps related to tree work shall be followed to discourage use of the sites by bats and to ensure that any bats present are able to safely relocate:*
    - *Tree limbs smaller than 7.6 cm (3 in) in diameter shall be removed and any loose bark shall be peeled away.*
    - *Any competing limbs that provide shelter around the potential roost site shall be removed to create as open of an area as possible.*
    - *The tree shall then be left alone to allow any bats using the tree/snag to find another roost during their nocturnal activity period.*
    - *Trees shall be re-surveyed 48 hours after trimming.*

- *If no bats are present, work may proceed.*
- *If bats remain on site, additional measures shall be prescribed by the biologist.*

*IV-3. Ordinance Sized Trees shall be avoided and preserved to the maximum extent feasible, as determined by a qualified arborist. If Ordinance Sized Trees cannot be avoided during construction, the project applicant shall mitigate for the removal of the Ordinance Sized Trees located within the project site, as identified in the tree survey prepared for the proposed project, by providing an on-site replacement planting at a minimum 1:1 ratio with 24-inch box sized trees. The City will condition the project to replace the Oaks at a 2:1 ratio. Replacement shall be overseen and verified with an International Society of Arboriculture certified arborist and the City of Morgan Hill.*

*IV-4. For the Ordinance Sized Trees to be preserved as part of the project, the project applicant shall include the following Tree Preservation Measures, which shall be noted on Improvement Plans, subject to review and approval by the Development Services Department:*

- *Locate structures, grade changes, etc. as far as feasible from the `dripline' area of the tree.*
- *Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5 times the `dripline' area of trees. Where root damage cannot be avoided, roots encountered (over 1" diameter) should be exposed approximately 12" beyond the area to be disturbed (towards tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or power saw, and immediately back-filled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.*
- *Construct a temporary fence as far from the tree stem (trunk) as possible, completely surrounding the tree, and 6-8 feet in height. Post no parking or storage signs outside / on fencing. Do not attach posting to the main stem 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 1-2 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, with not more than 6 lbs. of actual nitrogen per 1,000 square feet of accessible `drip line' area or beyond.*
- *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.*

*IV-5. No later than submittal of the first construction or grading permit for the proposed project, the owner or designee shall pay the Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the project site, as determined by the Santa*

*Clara Valley Habitat Agency, in compliance with Section 18.132.050 of the Morgan Hill Municipal Code.*

**B. Noise**

*XIII-1. Noise-generating construction activities associated with the proposed project shall only occur within the hours identified in Municipal Code Section 8.28.040(D). The above language shall be included on final project improvement plans prior to approval by the City of Morgan Hill Development Services Department.*

*XIII-2. To the maximum extent practical, the following measures shall be implemented during project construction:*

- All noise-producing project equipment and vehicles using internal-combustion engines shall be equipped with manufacturers-recommended mufflers and maintained in good working condition;*
- All mobile or fixed noise-producing equipment used on the project site that are regulated for noise output by a federal, State, or local agency shall comply with such regulations while in the course of project construction;*
- Electrically powered equipment shall be used instead of pneumatic or internal-combustion-powered equipment, where feasible;*
- Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receptors;*
- Project area and site access road speed limits shall be established and enforced during the construction period; and*
- Nearby residences shall be notified of construction schedules so that arrangements can be made, if desired, to limit their exposure to short-term increases in ambient noise levels.*

*The above requirements shall be included via notation on project grading plans, subject to review and approval by the Development Services Department.*

*XIII-3. During construction activities associated with the proposed project, any compaction required within 25 feet of existing residential structures adjacent to the project site shall be accomplished by using static drum rollers rather than vibratory compactors. The above requirement shall be included via notation on any grading plans approved for the project to the satisfaction of the City of Morgan Hill Development Services Department.*

**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.

Jennifer Carman, Development Services Director

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Date

