



DEVELOPMENT SERVICES DEPARTMENT, PLANNING DIVISION

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MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Application #s: DA2018-0003, EA2018-0023, SD2018-0006, ZA2019-0006

APN: 726-09-001 and 726-09-002

Project Title: Diana Avenue-Mana Residential Project

Project Location: The 4.84-acre project site is located immediately north of the intersection of Diana Avenue and Lotus Way, within an urbanized portion of Morgan Hill. Regional access to the project site is available from State Highway 101, located approximately 0.5 mile east of the project site, and E. Dunne Avenue via Butterfield Boulevard, approximately 0.25 mile south of the site. Diana Avenue adjoins the project site and provides local access to the property.

Project Proponent: Mana Hanalei, LLC
Scott Murray, Orville Power
175 E. Main Avenue
Morgan Hill, CA 95037

Project Description: The project applicant is requesting approval for the following on the 4.84-acre site (APNs 726-09-001 and 726-09-002):

- Demolition of two residences and associated outbuildings;
- Subdivision of the project site into 24 residential lots;
- Construct 24 single-family residences, public access roads, and a private park.

The proposed project involves the development of 24 residential units on the project site. The lots would vary in size, from 3,862 square feet to 9,228 square feet. The majority of the single-family lots would be sized between 7,000 and 8,000 square feet. The project would include 12 single-story and 12 two-story units, distributed throughout the site to create height variation and a visually interesting appearance within the neighborhood. All of the proposed residential units would include attached garages for two vehicles.

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

III. CONDITIONS (Mitigation Measures):

A. *Air Quality*

Although the project's construction-related air pollutant emissions would not exceed the BAAQMD's applicable significance thresholds, the following measures are recommended by the BAAQMD to reduce the project's construction emissions:

MM AQ-1: Basic Construction Measures. To limit the project's construction-related dust and criteria pollutant emissions, the following BAAQMD-recommended Basic Construction Mitigation Measures shall be included in the project's grading plan, building plans, and contract specifications:

- a. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

B. *Biological Resources*

The project's construction-related activities, including demolition of structures, 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 potential impacts to special-status animals to less-than-significant levels:

- MM BIO-1: Special-Status Bats. Prior to the removal of mature trees or the demolition or renovation of structures, the measures outlined below shall be performed.
- a. A pre-construction survey shall be conducted by a qualified biologist to identify suitable bat roosting sites.
 - b. Any trees or structures determined to support or potentially support maternal roosting sites may only be removed or demolished after coordination with the CDFW and/or the USFWS. Passive exclusion of roosting bats will be required and this may only be performed during the non-breeding season (i.e., between October 1 and March 30).
 - c. Any trees or structures determined to provide suitable bat day or night roosting sites shall be identified and marked on site plans. Such roosting sites include snags, rotten stumps, and decadent trees with broken limbs, exfoliating bark, cavities, openings leading to interior portions of any structures. If no suitable roost sites or evidence of bat roosting are identified, impact minimization measures are not warranted. If suitable roosting sites or evidence of bat roosting are identified, the following measures shall be conducted:
 - i. A qualified biologist shall survey suitable roost sites immediately prior to the removal or significant pruning of any of the larger trees, or demolition or significant renovation of any structures.
 - ii. If the project biologist identifies suitable day or night roost sites or evidence of bat occupation, the following steps shall be followed to discourage use of the sites by bats and to ensure that any bats present are able to safely relocate.

For trees:

- Tree limbs smaller than 7.6 cm (3 in) in diameter shall be removed and any loose bark should 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 trees shall then be undisturbed for 48 hours to allow any bats using the tree/snag to find another roost during their nocturnal activity period.
- The project biologist shall re-survey the trees a second time 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.

For structures:

- Depending on the location of potential roost sites and the nature of bat occupation, partial dismantling of a suspect structure may be performed to discourage use by bats. Partial dismantling may consist of the removal of siding, roof sections, and roof gables to permit air flow and exposure to sunlight. This work shall be performed under the supervision and direction of a qualified biologist.
- The project biologist shall re-survey the structures a second time 48 hours after performance of the partial dismantling work.
- If no bats are present, work may proceed.
- If bats remain on-site, additional measures shall be prescribed by the biologist.

MM BIO-2: Special-Status Animal Species with Suitable Site Habitat.

Prior to site preparation for project construction, including the removal of mature trees, demolition of structures, and grading, the measures outlined below shall be performed.

- a. If demolition, site clearing, grading or shrub removal or pruning are to be conducted outside of the breeding season (i.e., September 1 through January 31), no preconstruction surveys for nesting migratory birds is necessary.
- b. If demolition, site clearing, grading or shrub 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 no nesting or breeding activity is observed, work may proceed without restrictions. To the extent allowed by access, all active nests identified within 92 meters (300 feet) for raptors and 31 meters (100 feet) for passerines shall be mapped.
- c. For any active nests found near the construction limits (i.e., 92 meters [300 feet for raptors and 31 meters [100 feet] for passerines) the project biologist shall make a determination as to whether or not construction activities are likely to disrupt reproductive behavior. If it is determined that construction is unlikely to disrupt breeding behavior, construction may proceed. If it is determined that construction may disrupt breeding, the no-construction buffer zone shall be expanded; avoidance is the only mitigation available. The ultimate size of the no-construction buffer zone may be adjusted by the project biologist based on the species involved, topography, lines of site between the work area and the nest, physical barriers, and the ambient level of human activity. If it is determined that construction activities are likely to disrupt raptor breeding, construction activities within the no-construction buffer zone may not proceed until the project biologist determines that the nest is long longer occupied.
- d. If maintenance of a no-construction buffer zone is not feasible, the project biologist shall monitor the nest(s) to document breeding and rearing behavior of the adult birds. If it is determined that

construction activities are likely to cause nest abandonment, work shall cease immediately and the CDFW and/or the USFWS Division of Migratory Bird Management shall be contacted for guidance.

C. Hazards and Hazardous Materials

The following measures would be required to reduce the project's potential release of or public exposure to hazardous materials to a less-than-significant level:

MM HAZ-1: Implement Buyer Education Program for Household

Hazardous Waste: The project sponsor, working with the City of Morgan Hill and County of Santa Clara Household Hazardous Waste program, shall implement a Buyer Education Program for Household Hazardous Waste, providing materials and/or direction to sources of information, (e.g. <https://www.morgan-hill.ca.gov/432/Household-Hazardous-Waste>) to educate project buyers about the identification of household hazardous wastes, environmental hazards associated with mishandling of the wastes, appropriate disposal methods, and how to make an appointment for disposal.

MM HAZ-2: Hazardous Building Materials Removal. Prior to demolition of the existing buildings at the project site, the project applicant shall require that the contractor(s) have a hazardous building materials survey completed by a Registered Environmental Assessor or a registered engineer. This survey shall be completed prior to any demolition activities associated with the project. If any friable asbestos-containing materials or lead-containing materials are identified, adequate abatement practices, such as containment and/or removal, shall be implemented in accordance with applicable laws prior to demolition. Specifically, asbestos abatement shall be conducted in accordance with Section 19827.5 of the California Health and Safety Code, as implemented by the Bay Area Air Quality Management District, as well as 8 CCR Section 1529 and Sections 341.6 through 341.14, as implemented by Cal/OSHA. Lead-based paint abatement shall be conducted in accordance with Cal/OSHA's Lead in Construction Standard.

Any PCB-containing equipment, fluorescent light tubes containing mercury vapors, and fluorescent light ballasts containing DEHP shall also be removed and legally disposed of in accordance with applicable laws including 22 CCR Section 66261.24 for PCBs, 22 CCR Section 66273.8 for fluorescent lamp tubes, and 22 CCR Division 4.5, Chapter 11 for DEHP.

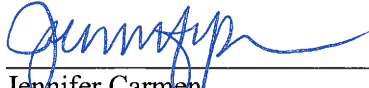
D. Hydrology and Water Quality

The project site reportedly has a water well, but the location of the well is unknown and was not found during a survey of the property for the Phase I Environmental Site Assessment. The following measure shall be implemented by the project applicant to reduce the project's hydrology and water quality impacts to a less-than-significant level:

MM HYD-1: **Properly Abandon Site Well.** The project sponsor shall determine the location of the site's water well, if present, prior to the start of project construction. The applicant shall retain a licensed well driller to destroy or abandon the water well at the project site in accordance with the standards specified in Santa Clara Valley Water District Ordinance 90-1 and the California Water Well Standards developed by the California Department of Water Resources. Documentation of appropriate disposal shall be submitted to the City of Morgan Hill Building Inspection Department prior to issuance of a demolition permit.
(http://www.water.ca.gov/groundwater/well_info_and_other/california_well_standards/well_standards_content.html).

III. FINDING

The City of Morgan Hill Community and Economic 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.



Jennifer Carmen
Development Services Director

Date: 7-17-19