

**RESOLUTION NO. 21-06**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A HISTORIC RELOCATION PERMIT TO ALLOW THE EXISTING HISTORICAL HOUSE LOCATED ON LOT NO. 4 OF THE APPLETREE SUBDIVISION TO BE RELOCATED TO THE NORTHWEST CORNER OF LOT NO. 4 AND CONVERTED TO A DETACHED ACCESSORY DWELLING UNIT. THE PROPERTY IS LOCATED ON THE SOUTHWEST CORNER OF OLD MONTEREY ROAD AND MUSTARD AVENUE AT 18755 OLD MONTEREY ROAD (APN 764-24-061)**

**WHEREAS**, on January 26, 2021, 18755 Old Monterey, LLC submitted an application for a Historic Relocation Permit to allow the existing historical house located on Lot No. 4 of the Appletree subdivision to be relocated to the northwest corner of Lot No. 4 and converted to a detached accessory dwelling unit; and

**WHEREAS**, such request was considered by the Planning Commission at their regular meeting of June 8, 2021; and

**WHEREAS**, the Development Services Director has determined that the Appletree (Kelly Vo) project proposed is categorically exempt from CEQA pursuant to Section 15332 (In-fill Development); and

**WHEREAS**, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

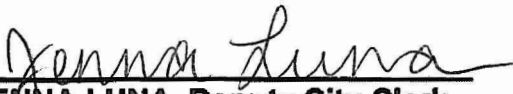
**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The approved project shall be conducted in a manner consistent with the Conditions of Approval attached hereto as Exhibit A and consistent with the Secretary of Interior's Standards for Rehabilitating Historic Buildings.

**PASSED AND ADOPTED THIS 8<sup>th</sup> DAY OF JUNE, 2021, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

<b>AYES:</b>	<b>COMMISSIONERS:</b>	<b>KUMAR, MUELLER, TANDA, GONZALEZ-ESCOTO, DOWNEY, MUNOZ-MORRIS</b>
<b>NOES:</b>	<b>COMMISSIONERS:</b>	<b>NONE</b>
<b>ABSTAIN:</b>	<b>COMMISSIONERS:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>COMMISSIONERS:</b>	<b>HABIB</b>

**ATTEST:**


  
\_\_\_\_\_  
**JENNA LUNA, Deputy City Clerk**

**APPROVED:**

  
\_\_\_\_\_  
**MALISHA KUMAR, Vice Chair**

**AFFIDAVIT**

We, 18755 Old Monterey, LLC, applicants, hereby agree to accept and abide by the terms and conditions specified in this resolution.

By:   
\_\_\_\_\_

Date: July 12, 2021

## **EXHIBIT "A"**

### **CONDITONS OF APPROVAL**

**APPLICATION NO: CUL2021-0001: OLD MONTEREY – APPLETREE (KELLY VO)**

**THE FOLLOWING APPROVAL REQUIREMENTS AND ANY SPECIAL CONDITIONS SHALL BE APPLIED THROUGH THE DEVELOPMENT APPROVAL PROCESS.**

#### Legend

MHMC= Morgan Hill Municipal Code  
MHARH= Morgan Hill Architectural Review Handbook  
CMH= City of Morgan Hill  
CFC= California Fire Code

#### **I. PROJECT DESCRIPTION**

The project includes a Historic Relocation Permit to allow the existing historical house located on Lot No. 4 of the Appletree subdivision to be relocated to the northwest corner of Lot No. 4 and converted to a detached accessory dwelling unit.

The project shall comply with all requirements of related project approvals granted by the City, including all of the following:

- A. AAE2021-0002
- B. EA2021-0002
- C. SR2019-0001
- D. DA2018-0001
- E. SD2018-0002
- F. RDCS2016-0008

#### **II. PROJECT CONDITIONS OF APPROVAL**

This Historic Relocation Permit approval is limited to the plan set date stamped June 8, 2021, on file (File Number CUL2021-0001) with the Development Services Department. The approved building plans and landscape plans must be in substantial conformance with the Historic Relocation Permit plans as determined by the Development Services Director. These documents show the location and dimensions of all vehicle and pedestrian circulation ways (ingress/egress), common areas, and other easement areas.

It shall be the responsibility of the Owner to ensure that any changes or modifications to the Project or any Unit are in compliance with the original City Conditions of Approval of the Project, which are hereby incorporated herein as set forth in full.

**PLANNING DIVISION**

### **DEFENSE AND INDEMNITY**

- A. As part of, and in connection, with this application to the City of Morgan Hill, Applicant agrees to defend, indemnify, and hold harmless the City of Morgan Hill, its officers, agents, employees, officials and representatives (Indemnitees) from and against any and all claims, actions, or proceedings arising from any suit for damages or for equitable or injunctive relief which is filed against City to attack, set aside, void or annul its approval of this application or any related decision, or the adoption of any environmental documents which relates to said approval. The City shall promptly notify the Applicant of any such claim, action or proceeding and the City shall cooperate fully in the defense thereof. In the event that Applicant is required to defend Indemnitees in connection with the proceeding, Indemnitees shall retain the right to approve (a) the counsel to so defend Indemnitees; (b) all significant decisions concerning the manner in which the defense is conducted; and (c) any and all settlements, which approval shall not be unreasonably withheld. This indemnification shall include, but is not limited to, (a) all pre-tender litigation costs incurred on behalf of the City, including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals; (b) reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted; and (c) all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party arising out of or in connection with the approval of the application or related decision. City may, in its sole discretion, participate in the defense of such action; but such participation shall not relieve Applicant of its obligations under this condition. The undersigned hereby represents that they are the Applicant or are fully empowered by the Applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by Applicant to be bound by such conditions.

### **TIME LIMITS**

- A. **Term:** The Historical Relocation Permit approval granted pursuant to this Resolution shall remain in effect for two years to June 8, 2023. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. **(MHMC 18.108.040)**

### **SITE DEVELOPMENT**

- A. **Site Design:** The site shall be developed in accordance with Approval Certificate Number 19-017 for the existing Design Permit, except as modified herein.
- B. **Final Site Development Plans:** Final site development plans shall be reviewed for conformance with CUL2021-0001 and approved by the Development Services Department prior to issuance of a building permit. All such plans shall include:

- i. Detail depicting all concrete curbs as full formed.
- ii. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be architecturally screened from view or located interior to the building. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. **(MHARH p.20, 45, 79)** For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.
- iii. All existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.

#### **SECRETARY OF INTERIOR'S STANDARDS FOR REHABILITATING HISTORIC BUILDINGS AND PRESERVATION BRIEFS**

- A. **Architectural Plans:** The architectural plan for the rehabilitation and any addition or alteration shall be prepared by a historic architect, recognized by the State of California (CRIS) and with experience rehabilitating wood buildings of this age. The Development Services Director shall verify the preparation of the plans by a qualified historic architect at building permit submittal. The applicant shall install a picket fence or additional landscaping along the frontage of the property to compliment the historic nature of the property, if found acceptable by the historical architect.
- B. **Rehabilitation:** Prior to the start of the rehabilitation, the General Contractor shall receive training from the historic architect on the sensitive nature of the materials and their preservation and care during rehabilitation. Prior to starting work, all workers assigned to this building shall receive training regarding the care of historic materials during any work and the preservation of historic materials going forward, including the following:
  1. Cleaning Historic Wood: When protecting the historic wood and to prepare for new paint, the contractor shall use low pressure water and bristle brushes to clean the building. The contractor shall follow Preservation Briefs #9 and #10 of the U.S. Department of Interior National Park Service Cultural Resources – Heritage Preservation Services Preservation Briefs.
    - a. Preservation Brief 9: The Repair of Historic Wooden Windows
    - b. Preservation Brief 10: Exterior Paint Problems on Historic Woodwork

2. **Repairing Historic Wood Elements:** The historic features and design of the building shall be preserved. Wood that is too deteriorated to be retained shall be replaced with wood milled to match the historic wood elements and approved by the historic architect prior to installation.
  3. **Repairing Historic Wood Window Sash:** The historic windows shall be preserved. The wood sash shall be cleaned and repaired. If required, new cords and missing hardware shall be installed for windows to be operable.
  4. **Roof Repair:** Roof repairs shall follow the historic shape and form of the roof structure. Roof covering shall be wood or composition shingles, with replacement material approved by the historic architect prior to installation.
- C. **Site and Setting:** The historic building shall be relocated to provide greater visibility along Mustard Avenue, with the structure relocated to at a minimum the setback line along Mustard Avenue. The Development Services Director shall verify the setback of the structure prior to issuance of a building permit.
- D. **Relocation:** An experienced house mover shall be retained to brace and prepare the building prior to lifting it and relocating to a new foundation.
1. Prior to issuance of a building permit for relocation of the historical building, the project applicant shall provide the Development Services Department a detailed assessment pertaining to the potential presence of lead-based paint-containing materials (LCM) and asbestos-containing materials (ACM) in the existing structure planned for relocation. If structure does not contain LCM or ACM, further action is not required; however, if LCM or ACM is found, condition 2 (below) shall be implemented.
  2. Prior to issuance of a building permit by the City for the relocation of the existing structure, all loose and peeling paint shall be removed and disposed of by a licensed and certified lead paint removal contractor, in accordance with federal, State, and local regulations. The contractor shall be informed that all paint on the buildings shall be considered as containing lead. The contractor shall take appropriate precautions to protect his/her workers, the surrounding community, and to dispose of construction waste containing lead paint in accordance with federal, State, and local regulations subject to approval by the City Building Official. Proof of removal shall be submitted to the City of Morgan Hill Development Services Department prior to issuance of a permit. If the building contains ACMs, a permit from the Bay Area Air Quality Management District (BAAQMD) may be required prior to potential disturbance. Any activities likely to disturb lead-based paint/coatings or lead containing materials (LCMs) or asbestos-containing materials (ACMs) shall be carried out by a contractor trained and qualified to conduct LCM and ACM construction work. Contractors must follow local, state, and federal regulations, including the Bay Area Air

Quality Management District (BAAQMD) and CALOSHA Guidelines, for handling of asbestos or lead paint.

- E. **Loss of Setting:** An educational plaque shall be installed in the sidewalk or at the front of the building to provide context for the historic building and build public awareness of the local history. The plaque shall describe the history of the building and Madrone Station. The Development Services Director shall approve the design, text, and location of the plaque prior to installation.
- F. **Historic Alteration Permit:** A major Historic Alteration Permit may be required if the restoration exceeds the scope of recommendations provided by the addendum report or if the alterations is estimated to be valued at \$10,000 or greater (MHMC 18.60.070.B.2.b).

**GENERAL**

- A. **Mitigation Fee Act:** Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of this development project for the purpose of defraying all or a portion of the cost of public facilities related to this development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected as part of development agreements, or as a part of the application for the City's Residential Development Control System. The Mitigation Fee Act Fees applying to this project are listed in the schedule of fees to be provided at building permit stage. Notice is also hereby given that the Developer has an opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval or conditional approval of this development project and that the 90-day protest period has begun.
- B. **SUBMIT SIGNED COPIES OF RESOLUTION:** Submit two (2) signed copies of the PLANNING COMMISSION RESOLUTION to the Planning Division prior to issuance of a building permit.

**ENGINEERING DIVISION**

- A. Submit the latest set of Improvement plans and map to the Engineering and Utilities Department (attention Mario Jimenez)
- B. Provide updated Storm Water calculations addressing additional runoff and sizing of onsite storm.

**BUILDING DIVISION**

- A. A separate Building Permit is required for the relocation.

- B. The findings within the Addendum to the Historical and Architectural Evaluation shall be included in those plans and construction documentations.