



COMMUNITY DEVELOPMENT AGENCY, PLANNING DIVISION

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DRAFT MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Date: March 29, 2013 **Application #s:** North Campoli: ZA-11-12/ SD-11-07
South Campoli: ZA-11-02/DA-11-01/SD-11-01/ EA-11-02

APN: North Campoli: 764-24-038, 764-24-040, and 764-24-042; South Campoli: 764-24-010

Project Title: Campoli Residential Projects:
1) North Campoli (Campoli-Cox)
2) South Campoli (Campoli-E&H)

Project Location: The North Campoli project is on a 2.04-acre site located on the north side of Campoli Drive off Old Monterey Road. The South Campoli project is on a 2.35-acre site located on the south side of Campoli Drive immediately east of Fisher Creek and west of Old Monterey Road.

North Campoli Project Proponent
Warren Cox
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(408) 309-3863

South Campoli Project Proponent
E & H 3rd FLP
Emily Chen
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Cupertino, CA 95014
(408) 421-2695

Project Description: The two projects are located adjacent to each other. The North Campoli project applicant requests a zoning amendment for the approval of a Planned Development zone. The project area consists of six legal lots. The project proposes to re-parcelize and subdivide the existing lots to create ten parcels, allowing for the development of 10 single-family homes.

The South Campoli project applicant requests a zoning amendment for the approval of a Planned Development zone. The applicant proposes a subdivision to allow for the development of 11 single-family units. On-site detention basins and improvements to Campoli Drive are also part of the project.

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 projects may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the projects, 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 projects, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

III. MITIGATION AND AVOIDANCE MEASURES:

A. Air Quality

The projects could result in substantial construction emissions of dust and exhaust which would be considered a significant air quality impact. Implementation of the following mitigation measures would reduce construction-related impacts to air quality to a less than significant level.

MM AIR-1 Implementation of the mitigation measures recommended by BAAQMD and listed below will reduce the air quality impacts associated with grading and new construction to a less than significant. In addition, these measures will reduce on-site equipment exhaust emissions. The lower emissions will reduce health risk impacts to existing residences that are nearby. The following construction practices shall be implemented during construction of the proposed residential projects:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- 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.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 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.
- 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.
- Avoid staging construction equipment adjacent to existing residences or sensitive receptors.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

B. Biological Resources

Construction activities associated with residential development on the project sites could result in the incidental loss of smooth lessingia, classified by the CNPS as a rare, threatened, or endangered species. The following measures shall be implemented to mitigate impacts to smooth lessingia to a less than significant level:

MM BIO-1.1 Focused rare plant surveys by a qualified biologist shall be conducted for smooth lessingia prior to ground disturbance on the project site and during their appropriate blooming period (typically July through November). Prior to issuance of a building permit or on-site or off-site improvements (including rough grading work), a report documenting the survey shall be submitted to the Community Development Agency.

MM BIO-1.2 If the focused rare plant surveys determine that smooth lessingia is present with a population representing a significant ecological size (greater than or equal to 40 individuals) on the project sites, the project proponent will consult with a qualified biologist to develop and implement an offsite restoration plan (approved by the City) in order to replace the plants and habitat lost during construction. The live plants shall be removed and relocated to an appropriate off-site location under the care of a qualified botanist; the relocated plants shall be adaptively managed for a minimum of five years. The restoration shall be initiated within one year of the impact and seed collection from the impacted population shall occur prior to the impact. If smooth lessingia is discovered on the sites when the HCP is effective, the project proponent will pay any associated development fees required for removal of the plant(s) from either site.

Construction activities associated with residential development on the project site could result in the incidental loss of eggs or nestlings, either directly through the destruction or disturbance of active nests or indirectly by causing the abandonment of nests. The following mitigation will reduce impacts from construction at the project site to raptors and migratory bird eggs and nestlings.

MM BIO-2.1 Construction shall be scheduled to avoid the nesting season to the extent feasible. If construction can be scheduled to occur between 1 September and 31 January (inclusive) to avoid the raptor and migratory bird nesting season, no impacts will be expected.

MM BIO-2.2 If construction will take place between February and August, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. Surveys will be completed no more than seven (7) days prior to the initiation of site clearing or construction activities. During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., trees, shrubs, buildings) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist will determine the extent of a disturbance-free buffer zone to be established around the nest (typically 250 feet for raptors and 50-100 feet for other species), to ensure that no nests of species protected by the Migratory Bird Treaty Act and California Fish and Wildlife Code will be disturbed during project implementation.

MM BIO-2.3 A report indicating the result of the survey and any designated buffer zones shall be submitted to the satisfaction of the Director of Community Development prior to the start of

construction.

Development of the project sites with residential land uses could result in the loss of burrowing owls and/or their habitat. The following mitigation measure shall be implemented to minimize potential adverse impacts on western burrowing owls:

MM BIO-3.1 In conformance with the City of Morgan Hill Burrowing Owl Habitat Mitigation Plan, the following will be implemented as part of the project to avoid direct impacts to burrowing owls and to offset impacts to their grassland habitat.

- Burrowing owl pre-construction surveys shall be completed to determine if burrowing owls are present within the footprint of the proposed grading area, no more than seven (7) days prior to the initiation of site clearing or construction activities.
- Should burrowing owls be found on the site during breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related activities shall occur outside the exclusion area until the young have fledged.
- If pre-construction surveys are completed during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Wildlife once mitigation has been provided.
- A final report on burrowing owls, including any protection measures, shall be submitted to the Director of Community Development prior to grading.
- The applicant shall pay the established burrowing owl impact fee prior to final building permit inspection.

C. Cultural Resources

Implementation of the projects could result in the destruction of unknown archaeological or paleontological resources. In the unlikely event that cultural materials are found during site grading or excavation, the following standard measure will reduce cultural resource impacts to a less than significant level:

MM CUL-1.1 In the event that known or suspected Native American remains are encountered or significant historic or archaeological materials are discovered, the following measures will be implemented:

- Ground-disturbing activities shall be immediately stopped if suspected Native American remains and/or significant historic or archaeological materials are discovered. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials, and historic structure remains such as stone-lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the discovery locale.
- An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the Monitoring Archaeologist (typically 25-50 ft. for single burial or archaeological find).

- The discovery locale shall be secured (e.g., 24 hour surveillance) as directed by the City or County if considered prudent to avoid further disturbances.
- The Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition: 1) the City of Morgan Hill Community Development Director; 2) the Contractor's Point(s) of Contact; 3) The Coroner of the County of Santa Clara (if human remains found); 4) The Native American Heritage Commission (NAHC) in Sacramento; and 5) The Amah Mutsun Tribal Band.
- If human remains are discovered, the Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American the Coroner has 24 hours to notify the NAHC. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) from the Amah Mutsun Tribal Band. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
- Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose. Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Community Development Director the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the Amah Mutsun Tribal Band may be considered and carried out.
- If the MLD recommendation is rejected by the City of Morgan Hill the parties will attempt to mediate the disagreement with the NAHC. If mediation fails then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

MM CUL-1.2 If paleontological resources are encountered during subsurface construction activities, all work within 50 feet of the discovery shall be redirected until a qualified paleontologist can evaluate the finds and make recommendations. If the paleontological resources are found to be significant, they shall be avoided by project construction activities and recovered by a qualified paleontologist. Upon completion of the recovery, a paleontological assessment shall be conducted by a qualified paleontologist to determine if further monitoring for paleontological resources is required. The assessment shall include: 1) the results of any geotechnical investigation prepared for the project site; 2) specific details of the construction plans for the project site; 3) background research; and 4) limited subsurface investigation within the project site. If a high potential to encounter paleontological resources is confirmed, a monitoring plan of further project subsurface construction shall be prepared in conjunction with this assessment. After project subsurface construction has ended, a report documenting monitoring, methods, findings, and further recommendations regarding paleontological resources shall be prepared and submitted to the Director of Community Development.

D. Hazardous Materials

Demolition of the existing single-family house on the South Campoli project site and the two outbuildings on the North Campoli project site, that may contain lead-based paint and ACMs, could expose construction workers and future residents to lead and asbestos. Implementation of the following measures will reduce impacts from hazardous materials to a less than significant level:

MM HAZ-1.1 The project is required to conform to the following regulatory programs and to implement the following measures to reduce impacts due to the presence of ACMs and/or lead based paint:

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be completed prior to the demolition of on-site structures to determine the presence of asbestos-containing materials and/or lead-based paint.
- Prior to demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to any building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from exposure to asbestos.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one (1) percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one (1) percent asbestos shall be completed in accordance with BAAQMD requirements.

E. Hydrology and Water Quality

Construction activities could temporarily increase pollutant loads in stormwater runoff. In accordance with the City of Morgan Hill Standard Conditions of Approval and the General National Pollutant Discharge Elimination System Storm Water Permit for Construction Activities, the following measures have been included in the projects to reduce potential construction-related water quality impacts.

MM HYD 1.1 Implementation of the following Pre-Construction Measures will reduce construction-related water quality impacts to a less than significant level:

- Burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities will be suspended during periods of high winds.
- All exposed or disturbed soil surfaces will be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind will be watered or covered.
- All trucks hauling soil, sand, and other loose materials will be covered and all trucks will be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites will be swept daily (with water sweepers).
- Vegetation in disturbed areas will be replanted as quickly as possible.

F. Noise

Future exterior noise levels at the South Campoli residences closest to the UPRR and Monterey Road could exceed the City's noise and land use compatibility standards and the threshold for acceptable exterior noise levels for single-family housing per the 2010 California Building Code. The following mitigation measure will reduce exterior noise at the proposed South Campoli residences closest to the UPRR tracks and Monterey Road to a less than significant level:

MM NOI-1.1 Private outdoor use areas for South Campoli Lots 10 and 11, facing the UPRR, shall be shielded by the residential units, providing a 10 dB noise attenuation at exterior use areas.

Future interior noise levels at the project sites will exceed the City's noise and land use compatibility standards and the threshold for acceptable noise levels for residential uses per the 2010 California Building Code. The following mitigation measures will reduce interior noise at residential development closest to the railroad to a less than significant level.

MM NOI-2.1 The following mitigation measures shall be incorporated into the project designs.

- Suitable form of forced-air mechanical ventilation shall be provided, as determined by the local building official, for units throughout the site, so that windows could be kept closed at the occupant's discretion to control interior noise and achieve the interior L_{max} and L_{dn} noise standards.
- Sound rated windows and doors to maintain interior noise levels at acceptable levels shall be provided. Preliminary calculations made based on the data contained in the conceptual design plans indicate that sound-rated windows and doors with a sound transmission class rating of STC 38 to 43 would be sufficient to control maximum instantaneous noise levels to 50 dBA L_{max} in bedrooms, 55 dBA L_{max} in other habitable rooms, and to also achieve the 45 dBA L_{dn} interior noise standard. Additional treatments may include, but are not limited to, sound rated wall construction, acoustical caulking, insulation, acoustical vents, etc. Large windows and doors shall be oriented away from the railroad where possible. Bedrooms shall be located away from the railroad.
- Final specifications shall be confirmed for noise insulation treatments during final design of the project, based on the best available data regarding future usage assumptions for the UPRR and HST alignments. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit.

Construction activities at the project sites will result in temporary noise impacts to adjacent residential development. The following mitigation measure will reduce temporary noise impacts from construction at the project sites to a less than significant level.

MM-NOI 3.1 The following mitigation measures shall be implemented during all phases of construction.

- Construction activities shall be limited to the hours between 7:00 AM and 8:00 PM Monday through Friday, and between the hours of 9:00 AM and 6:00 PM on Saturdays. No construction activities should occur on Sundays or federal holidays (Consistent with Section 8.28.040 of the Morgan Hill Municipal Code).
- All internal combustion engine driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

- Stationary noise generating equipment (e.g. rock crushers, compressors) shall be located as far as possible from adjacent residential receivers.
- Stationary equipment located near residential receivers shall be acoustically shielded with temporary noise barriers or recycled demolition materials.
- “Quiet” air compressors and other stationary noise sources where technology exists shall be utilized.
- The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- A "disturbance coordinator" who would be responsible for responding to any complaints about construction noise shall be designated. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.

III. FINDING

The City of Morgan Hill hereby finds that the proposed projects 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.

Leslie Little
Assistant City Manager for Community Development

Date: _____