

**FILE NUMBER:** PLN23-237-SB330  
**SUBJECT:** SB 330 Housing Development, Lot Merger, Subdivision  
**SITE LOCATION:** 1220, 1250, 1320 Diana Avenue, 1250 Condit Road, Morgan Hill, CA, 95037 (APN: 728-17-013, 728-17-014, 728-17-015, 728-17-037)  
**DATE RECEIVED:** December 19, 2023

Applicant Responses to comments dated January 17, 2024.

**PLANNING OFFICE**

Contact Robert Cain at (408) 299-5706 or [robert.cain@pln.sccgov.org](mailto:robert.cain@pln.sccgov.org) regarding the following comments:

*General Plan Conformance / Contiguity Statement*

1. The project is directly adjacent to the City of Morgan Hill. Please submit a General Plan Conformance / Contiguity Statement signed by a representative of the Morgan Hill Planning Department.

**Applicant Response:** We have reviewed the County’s SB 330 - Housing Crisis Act Planning Submittal Checklist (“Planning Checklist”) and the General Plan Conformance/Contiguity Statement is not a completeness item because it is not applicable to the property and the project. As stated in the cover letter for the submission of the project’s formal application (dated December 19, 2023), we understand the Planning Checklist to be the County’s formal application checklist for this Project. The County’s Planning Checklist states that “Applicants proposing a new housing development project within a city’s urban service area and under County jurisdiction must first file this form initiating annexation if the property is directly adjacent to city boundary, across the street from city boundary, or within 300 feet from the city boundary along a public road.” The project is not within the City of Morgan Hill’s urban service area.

*Lot Legality*

2. The information provided does not confirm the lot legality of APN 728-17-015, 1320 Diana Avenue. Please provide one of the following:
  - A Parcel or Tract Map establishing the current legal boundaries of this parcel, which is in conformance with the Subdivision Map Act.
  - The series of deeds, including the deed which was in effect on June 25, 1969, the deed showing the first transfer of title after June 25, 1969, and the current deed, all with matching descriptions of the property.
  - A recorded Certificate of Compliance issued by the County of Santa Clara.
  - A recorded certificate of lot merger or lot line adjustment.
  - A Record of Survey, certified by the Clerk of the Board of Supervisors and recorded with the County Clerk-Recorder stating that this is a legal lot.
  - Evidence that the lot is the remainder of a legal lot where a portion was acquired by a government agency.

**Applicant Response:** Please see Deed-Current 2838667.pdf, Deed-Current 3931349.pdf, and Deed-Supp.pdf included with this submittal for evidence of lot legality.

#### *Site Plan*

3. The plans do not show the required tree replacements as described in the County's Sample Site Plan. The plan set identifies 48 trees to be removed, including 22 Coast Live Oak trees and 1 Blue Oak Tree. Pursuant to the County's Guidelines for Tree Protection and Preservation for Land Use Applications, all healthy native trees 5 inches in diameter or more (at 4.5 feet above the ground) proposed for removal shall be replaced. Additionally, replacement trees should be native and like for like. Oak trees shall be replaced with oak trees, with no exceptions. Each small tree (5" to 18" in diameter) removed shall be replaced with three 15-gallon trees or two 24-inch box trees. Each medium tree (18" to 24") removed shall be replaced with four 15-gallon trees or three 24-inch box trees. Each large tree (24" or more) shall be replaced with five 15-gallon trees or four 24-inch box trees. The landscape plan does not provide sufficient detail to determine if this requirement is met, however, the proposal appears not to meet this requirement.

**Applicant Response:** Mitigation tree replacements have been revised to meet the county mitigation requirements to include (22) coast live oak trees and (1) blue oak tree, see added 'Tree Mitigation Data' and updated tree layout on sheet L1. A note has been added to the Tree Study summary table on Sheet C.07, referencing Landscape Plans for tree replacement summary.

#### *Floor Plans*

4. The applicant is required to submit floor plans for all existing and proposed structures. The only floor plan for an existing structure included in the plan set is for the residence to be demolished. There are multiple other existing structures, both to be demolished and to remain, which must also have floor plans included in the plan set.

**Applicant Response:** Please see Sheets C.06 and C.07 for floor plans of existing structures. The accessory structures on site are vacant and not expected to contain utilities. Note, there is no proposal to demolish walls of any existing retained structures.

#### *Elevations*

5. Finished grade elevation callouts shall also be indicated at each corner of all proposed structures. Refer to the height handout for additional information (<https://stgenpln.blob.core.windows.net/document/BuildingHeight.pdf>).

**Applicant Response:** Note has been added to Sheets C.08 and C.09 stating exterior elevations at each building corner.

*Energy Conservation Plan*

6. Subdivision applications that include one or more proposed lots under one acre require an Energy Conservation Plan. Such a plan was not provided in the plan set.

**Applicant Response:** Energy Conservation Plan has been added. Please see Plans.pdf.

*Arborist Report*

7. Please submit an updated arborist report which is based on the current proposal and includes recommendations for tree replacements.

**Applicant Response:** Please see updated arborist report (Arborist Rpt.pdf). A note has been added to the Tree Study summary table on Sheet C.07, referencing Landscape Plans for tree replacement summary. For the complete landscape plan, please see Plans.pdf.

*Affordability*

8. The developer shall provide documentation of legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of Government Code section 65589.5 for 30 years.

**Applicant Response:** This comment is noted. We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. We anticipate entering into a recorded affordable housing regulatory agreement as a condition of approval for the project.

*CEQA Analysis*

9. Please submit a study by a qualified professional archaeologist examining the existence or potential for archaeological, Native American, or other cultural resources on site; a noise study; and a traffic study. All studies should address the potential impacts of the project related to the study subject.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. An archaeological report, a biological resources report, and traffic study are provided in this submittal. A cultural resources report will be provided confidentially under separate cover. Please see Archaeological Rpt.pdf., [Bio Rpt.pdf], and Traffic Rpt.pdf.

**LAND DEVELOPMENT ENGINEERING**

Contact Darrell Wong at (408)-299-5735, [darrell.wong@pln.sccgov.org](mailto:darrell.wong@pln.sccgov.org) regarding the following:

10. The map shall match the scale noted on the plans. The map states that it is drawn to 1"=30', but the measurements on the map itself do not match. The map shall contain the following information:

**Applicant Response:** Tentative Map Sheets C.03 and C.04 are drawn at a scale of 1" = 30', when printed full size (24" x 36").

- a. The proposed subdivision name or other designation.

**Applicant Response:** North Diana Subdivision.

- b. Sufficient description to define the location and boundaries of the proposed subdivision. The curve radii shall be stated on the map along with the length of the segment.

**Applicant Response:** Sheet C.01 shows the property boundaries, bearings and distances with map references. Sheet C.01 additionally shows the location of the project in relation to existing roadways.

- c. The approximate grades of all streets in the subdivision depicted in a plan and profile view.

**Applicant Response:** Sheets C.08 and C.09 show street grading in plan view and Sheets C.12-C.14 show the street grading in profile view.

- d. The locations and approximate widths of all easements for the water system, storm water treatment and control, drainage, sewage, or public utilities. Identify the specific parcels to be utilized for particular uses and functions such as stormwater treatment, water treatment, distribution and storage, wastewater treatment, etc. The parcels should be identified on the cover sheet.

**Applicant Response:** Locations and widths of easements are shown on Sheets C.02-C.05. The parcels to be used for wastewater, stormwater, and domestic water are shown and labeled on the Sheet C.01.

- e. Approximate radii of all curves.

**Applicant Response:** See Sheets C.03 and C.04 for curve radii.

- f. Approximate dimensions of all lots including the curve radii.

**Applicant Response:** See Sheets C.03 and C.04 for location and dimensions of all lots including curve radii.

- g. Public areas proposed, if any.

**Applicant Response:** No public areas are proposed.

- h. Statement of the dedications and improvements proposed to be made or installed.

**Applicant Response:** Statement of Dedications is shown on Sheets C.02 and C.03.

- i. Typical cross-sections of all streets (not less than two sections) showing any proposed road widths and maximum cuts and fills at intervals not exceeding 500 feet. They shall accurately depict topographic conditions not less than 100 feet outside the future rights-of-way. The vertical dimensions of cuts and fills on each section shall be shown.

**Applicant Response:** See Sheets C.10 and C.11 for Grading Cross Sections as requested.

- j. Provisions for drainage and flood control which are proposed.

**Applicant Response:** Drainage and stormwater control system is shown on Sheets C.08 and C.09 (Preliminary Grading and Drainage Plan), Sheets C.10 and C.11 (Grading Cross Sections), Sheets C.12-C.14 (Street profiles), Sheets C.15 and C.16 (Site Utility Plan), and Sheet C.17 (Stormwater Control Plan).

- k. Clearly show the existing mapping on the neighboring development to the South, specifically the limits of the Open Space Easement.

**Applicant Response:** Callouts have been added to Sheet C.05 to clarify the existing mapping of the Open Space Easement neighboring to the south.

- l. Clearly show the limits between the County Maintained Road Dedication and the privately maintained road dedication.

**Applicant Response:** Callouts have been added to Sheets C.02-C.05 to delineate between the County Maintained Road Dedication and the privately maintained road dedication.

- m. Clearly identify on the Tentative Map the difference in lot line types between parcels for SFR and townhome/condo units. Provide a legend as necessary in general.

**Applicant Response:** Lot line appearance has been modified and legend has been added to Sheets C.02-C.05 so that SFR and townhouse lot lines are clearly identified.

- 11. Show all of the proposed electrical and joint trench utilities on the plans. Show the connection of the water main to the proposed source.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Joint trench design will be provided during construction document phase. Please see Sheets C.15 and WW2 for water main connection to the proposed source.

12. Demonstrate evidence of legal access to the extension of Mimosa Dr. on the neighboring subdivision for access as well as storm drainage improvement. Provide the resolution of acceptance of the offer of dedication to the City of Morgan Hill accepting said street/easement. Provide the evidence of legal access if otherwise.

**Applicant Response:** Per Tract Map 10123 provided by Old Republic Title, the existing portion of Mimosa Drive is a City of Morgan Hill maintained public street. Please see Deed-Adj.pdf.

13. Please include all applicable easements affecting the parcel(s) with benefactors and recording information on the site plan. Please supply a copy of the preliminary title reports, prepared within the current ownership of each property, with a statement from the owners that no subsequent encumbrances have been recorded since the preparation of the respective title report.

**Applicant Response:** Preliminary title report has been included with this submittal. Please see Prelim Title Rpt.pdf.

14. Please clearly identify all retaining walls necessary to establish the grading shown with appropriate top and bottom of wall elevations. Please provide a cross-section of the grading, including the proposed wall, per Section C12-424 (j) and (k) of the County Grading & Drainage Ordinance. The vertical separations between the lots should be clearly identified on the plans as to how they will be graded if no retaining walls are included in the design.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. A retaining wall will be required between lots 16 and 53 from lots 17 and 51/52. This wall is shown on Sheets C.08 and C.10.

15. Submit a completed Central Coast Watershed Questionnaire (MRP 3.0). Based on the results of the Questionnaire, incorporate the applicable stormwater treatment measures in the plans.

**Applicant Response:** The revised Drainage Report included with this submittal contains the completed Watershed Questionnaire. Please see Drainage Rpt.pdf.

16. The proposed development impacts drainage flows, thereby not meeting the exemption requirements of Section C12-407 of the County Grading & Drainage Ordinance. Please provide a revised Drainage Plan that demonstrates the following items:

- a. the site can be adequately drained showing the grading and drainage to the street from the developed lots, the preliminary invert elevations of the storm drainage lines or ditches to the treatment /detention facility and then subsequently to the City of Morgan Hill storm Drainage Connection,

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Site drainage is shown on Sheets C.08 and C.09. Storm drain routing is shown on Sheets C.15 and C.16. Inverts at the downstream end of the proposed storm drain system have been added to Sheet C.16. The conveyance of the project's stormwater to the Morgan Hill storm drainage system in Condit Road through a 24 inch pipe is shown on Sheet C.16.

- b. the proposed development will control overflow in such a manner that will not impact the nearby properties, as the overflow of the treatment/detention area appears to connect to a discharge line at Condit Road in the City of Morgan Hill. Provide further details of the drainage line connecting to the City of Morgan Hill system and the necessary storm drainage easement through Parcel 7 on the map and plan,

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Additional information for the storm drain line connecting to the City of Morgan Hill system has been added to Sheet C.16. A proposed Private Storm Drain Easement for this line has been added to the plans on Sheets C.03 and C.05.

- c. the on-site drainage will be controlled in such a manner as to not increase the downstream peak flow or cause a hazard or public nuisance. Provide preliminary storm drainage calculations and existing infiltration rates as a result of field investigations and testing to demonstrate that the detention system provided at the southerly corner of the development is designed pursuant to the Design Guidelines in Section 6.3.3 of the 2007 Santa Clara County Drainage Manual and sufficient for Hydromodification requirements of the Central Coast Regional Water Quality Control Board.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. By utilizing a flow constricting outflow structure, the post project peak flows will not exceed pre project peak flows (see Drainage Rpt.pdf).

17. Please demonstrate that the access roads James Drive and Mimosa Drive conform to County Standard Detail SD3 with a 60' right of way to accommodate two-lane access, roadside drainage ditches, and 10' deep driveway flares.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. James Drive and Mimosa Drive are both connected to existing City of Morgan Hill streets. The extensions of James Drive and Mimosa Drive proposed at part of this subdivision will be constructed using City of Morgan Hill Standard Drawing A-19 with R/W width of 48' to match the existing sections that these roads will connect to. Using County Standard Detail SD3 with a 60' R/W width would not match the existing R/W widths that these roads are connecting to. Additionally, using County Standard Detail SD3 would reduce the developable area of the subdivision and would require a new layout, which would likely reduce the number of lots. If this continues to be a comment as we proceed through the process, we reserve the right to analyze the comment's applicability to the project in light of the state housing laws, including but not limited to the State Density Bonus Law, SB 330, and the Housing Accountability Act.

18. James Drive does not connect to an existing street and therefore the final one foot shall be granted in fee to the County to prohibit ingress or egress across it to the adjoining property until such time as an extension of the road on which the reservation is placed is dedicated to public use and said dedication is recorded. After the extension of the street pursuant to County approval, the one-foot fee dedication shall be null and void. Alternatively, the extension of James Drive to Condit Avenue shall be dedicated and improved to the full improvement standard consistent with the other portions of the subdivision.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. A callout for this 1' dedication has been added to Sheets C.02-C.05.

19. The southerly end of Mimosa Drive is proposed to connect to a City of Morgan Hill maintained road. Provide approval from the City of Morgan Hill for this connection. If one cannot be provided, the road shall terminate at the southerly boundary of the subdivision in an SD16 cul- de-sac bulb with a maximum of 800' in dead-end length. The owners of the neighboring subdivision are responsible for the maintenance of the existing Mimosa Drive and the County suggests coordinating with the property owners of the neighboring development.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Per Tract Map 10123 provided by Old Republic Title, the existing portion of Mimosa Drive is a City of Morgan Hill maintained public street.



20. Please include driveway approaches per County Standard SD4. The minimum driveway flares shall be 10' deep and the right of way shall be located a minimum 20' distance from the edge of the private road pavement.

**Applicant Response:** Driveway approaches along the private streets (Mimosa Drive and James Drive) are proposed as City of Morgan Hill Standard Drawing A-8, which matches the driveway approaches on the existing portions of these streets. Using driveway approaches per County Standard SD4 would reduce the developable area and would require modifying the lot layout and potentially result in a reduction in the number of lots. If this continues to be a comment as we proceed through the process, we reserve the right to analyze the comment's applicability to the project in light of the state housing laws, including but not limited to the State Density Bonus Law, SB 330, and the Housing Accountability Act.

21. Demonstrate how the drainage runoff from the improved areas of Murphy Avenue and Diana Avenue will drain and be routed to the storm water treatment area by way of the roadside ditches.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Drainage from the improved areas of Murphy Avenue and Diana Avenue on the subdivision side of the road crown will be conveyed through curb inlets and pipes to the subdivision's stormwater treatment facility. Drainage from the 10' of pavement replaced on the opposite side of the crown will follow the existing natural drainage patterns.

22. Where lots have frontage on a roadway which is not designed to permit parking such as Murphy Avenue, common parking areas to serve several dwelling units shall be designed for two spaces per dwelling unit exclusive of a garage or carport. Driveways may be used to provide this parking. Please provide a revised plan that demonstrates common parking areas.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. The lots fronting Murphy Avenue will have sufficient driveway length to allow parking for two spaces per dwelling unit exclusive of garage or carport. Covered and uncovered parking spaces are now shown on Sheets C.02 and C.03.

23. Residential lots adjacent to a major collector street shall be designed to front on a street one lot depth removed from the major street or on an intersecting side street. Please provide a revised plan that demonstrates such design.

**Applicant Response:** We have reviewed the County's checklist and this is not a completeness item. However, we have provided the following information. Following this standard would reduce the developable area of the subdivision, would require a new layout, and would reduce the number of lots. If this continues to be a comment as we proceed through the process, we reserve the right to analyze the comment's applicability to the project in light of the state housing laws, including but not limited to the State Density Bonus Law, SB 330, and the Housing Accountability Act.

24. Demonstrate how the runoff from the entirety of the new pavement within Murphy Avenue and Diana Avenue will be captured for treatment. Currently, the design appears to drain a portion of the runoff from the improved areas away from the captured Drainage Management Area avoiding the treatment facility, but the runoff draining from the proposed improvements should all be routed to be treated.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Drainage from the improved areas of Murphy Avenue and Diana Avenue on the subdivision side of the road crown will be conveyed through curb inlets and pipes to the subdivision's stormwater treatment facility. Drainage from the 10' of pavement replaced on the opposite side of the crown will follow the existing natural drainage patterns. To mitigate the lack of treatment of these 10' strips, the on-site stormwater system has been sized with additional capacity to provide equivalent treatment.

25. The grading design along the property lines shall include the required 5' setback per the County Ordinance Code. Retaining walls may be included in the grading design as an alternative. Please provide a revised plan that complies with the Grading setbacks to the property line per County Grading Ordinance C12-558. There appear to be vertical separations between some lots (16 and 17 for example) that do not appear to comply with the ordinance requirements.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. A retaining wall has been added to the grading design to separate lots 17 and 53 from lots 16 and 51/52. The remaining neighboring lots have differences in elevation of less than 0.5', which can be obtained by the kicker board on a standard wooden privacy fence. Because the subdivision proposes 5' side setbacks, it is not feasible to maintain the required 5' grading setback. If the 5' grading setback is implemented, the side setback would need to increase to at least 10' to allow for the lot to be graded around the houses. By increasing the side setback, the lot layout would need to be modified resulting in fewer lots. If this continues to be a comment as we proceed through the process, we reserve the right to analyze the comment's applicability to the project in light of the state housing laws, including but not limited to the State Density Bonus Law, SB 330, and the Housing Accountability Act.

26. The side lines of the lots shall run at right angles to the street upon which the lot faces as far as practical. Please provide a revised plan that demonstrates such side lines.

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. With the exception of 4 lots on Diana Avenue, this standard is met. The skew angle of Diana Avenue with Murphy Avenue makes this requirement impractical for these 4 lots. If this standard were applied to the lots on Diana Avenue, the number of lots would be reduced. If this continues to be a comment as we proceed through the process, we reserve the right to analyze the comment’s applicability to the project in light of the state housing laws, including but not limited to the State Density Bonus Law, SB 330, and the Housing Accountability Act.

### **ROADS AND AIRPORTS**

Contact Tom Esch at (408)-573-2450, [tom.esch@rda.sccgov.org](mailto:tom.esch@rda.sccgov.org) regarding the following:

27. Murphy Avenue has a Future Width Line (FWL) for a 46-foot half street width (92-foot full street). Show on the revised plans the existing centerline, existing edge of pavement, limits of the existing Murphy Avenue right-of-way (ROW) and the limits of the FWL (identify as FWL). A curvilinear dedication to public right-of-way will be required.

**Applicant Response:** Edge of pavement callouts for Murphy Avenue have been added to Sheets C.06 and C.07. FWL callouts have been added to Sheets C.02-C.05. A curvilinear dedication at the southeast return of the intersection of Murphy Avenue and Diana Avenue is shown on sheet C.04.

28. Diana Avenue has a Future Width Line (FWL) for a 30-foot half street width (60-foot full street). Show on the revised plans the existing centerline, edge of pavement, limits of the existing Diana Avenue right-of-way (ROW) and the limits of the FWL (identify as FWL). A curvilinear dedication to public right-of-way will be required.

**Applicant Response:** Diana Avenue has a current R/W width of 66’ which exceeds the required 60’. Edge of pavement callouts for Diana Avenue have been added to Sheet C.06. FWL callouts have been added to Sheets C.02 and C.04. A curvilinear dedication at the southeast return of the intersection of Murphy Avenue and Diana Avenue is shown on Sheet C.04.

29. Indicate designated entry points. Murphy Avenue is designated as a two-lane arterial with planned northern extension to Mission View Drive with limited driveway access. The designated entry points for the development will be at James Drive/Murphy Avenue and at Mimosa Drive/Diana Avenue. All residential driveways must be internal to the development except for the designated entry points.

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. This requirement would result in the loss of lots as shown on Sheet C.18. If this continues to be a comment as we proceed through the process, we reserve the right to analyze the comment’s applicability to the project in light of the state housing laws, including but not limited to the State Density Bonus Law, SB 330, and the Housing Accountability Act.

30. All designated entry points and property frontage improvements will be required to be improved to County Standard A/3 and B/1, and the revised plans should indicate as such. Include County standard details on the plan sets. Indicate improvements on the revised plans to identify any conflicts that will need to be resolved (i.e., utility poles, trees, culverts, etc.).

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. This requirement would result in the loss of lots as shown on Sheet C.18. If this continues to be a comment as we proceed through the process, we reserve the right to analyze the comment’s applicability to the project in light of the state housing laws, including but not limited to the State Density Bonus Law, SB 330, and the Housing Accountability Act.

31. Provide a Traffic Study (TS). The TS should include, at the minimum, the following elements:
  - a. Existing conditions;
  - b. Existing plus project conditions;
  - c. Trip generation study for AM peak hour, PM peak hour, peak hour of generator, weekend peak hour;
  - d. Site circulation analysis, including emergency vehicle access;
  - e. Site access analysis;
  - f. Sight distance analysis for driveways and entry points;
  - g. Truck turning templates;
  - h. Queuing analysis;
  - i. Feasibility of acceleration and deceleration lane at proposed entry points;
  - j. Existing transit, pedestrian, and bike facilities;
  - k. Evaluation of intersections for 2-way stop control.

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. Please see Hexagon report Traffic Rpt.pdf for discussion of the listed elements. Per the County’s approved scope of work, all items are provided in the Hexagon report except for acceleration/deceleration lane at proposed entry points, which is not applicable to this study as Diana Avenue and Murphy Avenue are two-lane roads.

32. Provide a Sight Distance Analysis (SDA) for designated entry points. The SDA shall be based on County Standard driveway approach layouts consistent with Caltrans Highway Design Manual Section 200 and prepared by a licensed civil engineer demonstrating adequate stopping sight distance in both directions is available. The SDA is to include the following:
- a. The design speed used to determine the stopping sight distance;
  - b. The basis of the design speed, i.e., the engineer's statement that they have determined the speed by driving the section of roadway or the engineer's calculation of the speed based upon the existing measured roadway geometry;
  - c. The limits of any obstruction(s) to be removed between the edge of pavement and the sight line.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Please see Hexagon report Traffic Rpt.pdf.

33. Provide a crosswalk at Diana Avenue/Mimosa Drive. Keep crosswalks as a straight alignment if sight distance is adequate for both Murphy Avenue/James Drive and Diana Avenue/Mimosa Drive.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Crosswalk has been added to Sheet C.02.

34. As a result of the TS/SDA, indicate on plans if any conflicts will require mitigation, such as tree or shrub removal or trimming, fence removal, or additional grading.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. Any applicable required mitigation can be addressed through a condition of approval for the project.

35. Improvement plans must clearly indicate existing and proposed site conditions within the ROW (and within the FWL if applicable), including but not limited to, above and below-ground utility lines, easements, drainage facilities, trees, landscaping, and other structures and features. All utility relocations, replacements, and abandonments, and temporary and new facilities, shall be shown.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Existing overhead lines and poles on Diana Avenue to be undergrounded are shown on Sheet C.15. Complete improvement plans will be provided as part of the future building permit process.

36. Demonstrate that the post-development maximum flow rate into the County Road ROW is equal-to or less-than the pre-development corresponding storm event flow rate per the County Drainage Manual. Provide engineered plans and drainage calculations for any detention or retention system necessary to satisfy this requirement.

**Applicant Response:** Post development peak flows will not exceed pre development peak flows by using a detention pond, underground storage, and an outflow control structure. See Drainage Rpt.pdf, page 4 for details.

37. Identify bio-retention facilities for runoff due to new pavement and hardscape created in the County ROW.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Bio-retention facilities are not proposed in the County ROW. Storm filters and bioretention ponds will be used for stormwater treatment. See Sheet C.17 and Drainage Rpt.pdf, page 18 for details.

38. Gates, fences, retaining walls, fixed appurtenances, bio-retention facilities, etc. shall be located outside the limits of the County-maintained road ROW. Gates shall be located 30 feet from edge of pavement. Landscaping and any items remaining in the ROW will be required to have a Maintenance and Indemnification Agreement (MIA) recorded against the property. Indicate landscaping on plans and the intent of any existing or future items in the ROW.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Locating gates 30 feet from edge of pavement would reduce the developable area, would require modifying the lot layout, and would potentially result in a reduction in the number of lots. If this continues to be a comment as we proceed through the process, we reserve the right to analyze the comment's applicability to the project in light of the state housing laws, including but not limited to the State Density Bonus Law, SB 330, and the Housing Accountability Act.

39. Plans state Mimosa Drive and James Drive are not County Maintained, and plans indicate possible hardscape or landscape within County ROW. Identify maintenance responsibility for the non-County maintained roads, bio-retention facilities, and landscaping/hardscape in County ROW.

**Applicant Response:** We have reviewed the County's Planning Checklist and this is not a completeness item. However, we have provided the following information. Maintenance agreement will be needed, should be included in conditions of approval.

40. Identify on plans the lines of a triangle which has sides 40 feet from the point of intersection of the curblineline/edge of pavement and the designated access point, in accordance with County Ordinances B17-68 and B17-69, in order to verify trees, shrubs, fencing, signage, etc., are not an obstruction to approaching traffic.

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. Sight triangles have been added to Sheets C.02, C.03, C.15, and C.16. 40 foot triangle has been added to landscape plans, all trees, shrubs, fencing and signage have been verified to not obstruct approaching traffic. See updated plan Sheet L1.

### **FIRE MARSHAL’S OFFICE**

Contact Alex Goff at (408) 299-5760 or [alex.goff@sccfd.org](mailto:alex.goff@sccfd.org) for information regarding the following items.

41. Standard fire hydrants are to have a maximum spacing of 500 feet per CFC Appendix “C”. It appears that some hydrants exceed this distance. Provide revised plans reflecting this spacing.

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. As shown on Sheets C.15 and C.16, each proposed hydrant is within 500’ of an existing or proposed hydrant.

42. Sheet WW1 shows a 180,000-gallon water tank based on 1,500 gallons per minute for 2 hours. Provide a more detailed explanation of the sizing including air gap, refill rate and Appendix “B” of the CFC.

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. Sheet WW-1 has been amended to include additional notes to Water System Summary and modifications to the Water System Schematic clarifying the following: (a) fire water supply of 1,500 gpm for 2 hrs determined based on Type V-B building construction, 0-3,600 sq. ft. fire flow area; (b) fire flow provided from 180,000 gal storage tank plus 375 gpm well supply; (c) automatic water storage refill in 8 hours from well pumping at rate of 375 gpm; and (d) 12-inch air gap at point of inflow to water storage tank from 6-inch discharge line.

43. Ensure all Engineering stamps are current.

**Applicant Response:** Expiration dates for engineering stamps have been updated.

### **ENVIRONMENTAL HEALTH**

Contact Darrin Lee at (408) 299-5746 or [darrin.lee@cep.sccgov.org](mailto:darrin.lee@cep.sccgov.org) for information regarding the following items:

44. As provided, the onsite wastewater treatment system (OWTS) design for community dispersal field for 86 housing units with a total design flow equaling 12,900 gallons per day (86 x 150 gallons per day). The OWTS plan (Sheet WW5) calls for a primary leach field with 4 zones (4- 100 linear feet) totaling 1600 linear feet.

- a. Per B11-62, For every property where there is a proposed residence and abuts to a street where exists an approved sanitary sewer, or which property line is within 300 feet of an approved available sanitary sewer, must be connected to the sanitary sewer in the most direct manner possible. Clarify/ show the distance to the nearest available sewer line.

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. The only sewer lines in the vicinity of the project site are those that are part of the City of Morgan Hill municipal sewer system. However, in order to be available sewer lines, they must not only exist physically, but the sewer authority must be able and willing to allow connection to the sewers. In this case, they are not available sewer lines, since the City of Morgan Hill has denied requests by the North Diana project for connection to the City water and wastewater infrastructure. Please see letter from City of Morgan Hill, included in Attachment A of the Wastewater Facilities Plan (see Wastewater Rpt.pdf).

- b. The provided OWTS plan (WW4) shows a total of 4 percolation test holes in the “primary leach field”. The plan lacks soil profile locations. Locate and show all soil profile locations on a revised site plan.

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. Sheet WW-4 has been revised to include soil profile locations.

- c. The provided OWTS plan calls for the installation of a drip dispersal field at 8 inches; however, soil profiles and percolation tests were not conducted at the proposed operating depth. Conduct additional soil profiles and percolation tests at the proposed operating depth.

**Applicant Response:** We have reviewed the County’s Planning Checklist and this is not a completeness item. However, we have provided the following information. Six (6) shallow percolation tests were completed on February 23, 2024, (witnessed by DEH staff, Darius Haghghi), in areas intended for seasonal drip dispersal of treated wastewater. Testing showed an average rate of 10 minutes per inch, consistent with the initial design assumptions. The test locations have been added to Sheet WW-4 and the test data are included in the updated Wastewater Facilities Plan (see Wastewater Rpt.pdf).



- d. As the projected design flow exceeds 10,000 gallons per day (GPD), the review and approval of the OWTS shall be conducted by the applicable California Regional Water Quality Control Board. Provide to the Department of Environmental Health documentation from the applicable Regional Water Quality Control Board for project clearance addressing project feasibility/approval.

**Applicant Response:** The Wastewater Facilities Plan submitted as part of the project application was prepared specifically to comply with the Santa Clara County SB330 Submittal Checklist instructions pertaining to “State Wastewater Clearance”. The checklist states that an approved permit from the applicable Regional Water Board must be submitted or:

*“Alternatively, the applicant may submit a feasibility study that complies with state requirements for wastewater and provides adequate access to wastewater under state law.”*

The Wastewater Facilities Plan submitted for North Diana satisfies the latter requirement. It was prepared in accordance with the outline and specified content provided in “Attachment B1-Information Sheet - Recommended Report of Waste Discharge Format”, which is part of State Water Board Order WQ 2014-0153-DWQ that applies to Small Domestic Wastewater Treatment Systems such as the North Diana project. A formal Report of Waste Discharge application has been prepared and has been submitted to the Central Coast Regional Water Board for the North Diana project. A copy of the application to the Central Coast Regional Water Board is included in this application submittal.

- e. As the projected wastewater design flow appears to exceed 2,500 gallons per day, cumulative impact assessment for groundwater mounding and nitrate loading shall be reviewed and approved by the applicable California Regional Water Quality Control Board.

**Applicant Response:** Comment noted. The assessment of groundwater mounding and nitrate loading are included in the Wastewater Facilities Plan, which is under review by the Regional Water Board in the course of processing the waste discharge application for the North Diana project. A copy of the Wastewater Facilities Plan is included in this application submittal. Please see Wastewater Rpt.pdf.

- f. Obtain OWTS clearance from the Department of Environmental Health for verification of setback requirements. To obtain clearance follow the URL [https://cpd.sccgov.org/sites/g/files/exjcpb706/files/applications-fees/2023.07%20LU\\_Plan%20Review\\_Application\\_Fillable%20Version.pdf](https://cpd.sccgov.org/sites/g/files/exjcpb706/files/applications-fees/2023.07%20LU_Plan%20Review_Application_Fillable%20Version.pdf) and complete the service application. Note: DEH performs limited plan review. Upon achieving OWTS clearance, DEH will forward/ provide the applicable California Regional Water Quality Control Board its recommendation through a digital approval recommended stamp.

**Applicant Response:** We have reviewed the service application form referenced in this comment (“Land Use Plan Review”) and find that it does not have any space or provisions for entering information about State-regulated community wastewater systems such as that proposed for the North Diana project. It appears to be strictly for County-regulated onsite wastewater treatment systems. Service applications have previously been completed in connection with DEH site evaluations for the North Diana property in October 2023 and February 2024, during which field observations were made of soils, percolation, groundwater and other site conditions in the proposed wastewater disposal areas. Please see the enclosed “Site Assessment Report” by DEH staff for the proposed wastewater disposal area, dated 10-19-23 (Site Assessment Rpt.pdf).

Regarding the question of wastewater facilities setbacks, this is addressed on pages 5 and 11 of the Wastewater Facilities Plan, which includes discussion of requirements for both State-regulated and County-regulated wastewater systems. As pointed out in the report, the only difference between State and County requirements is the property line setback – 5 feet under State requirements, and 10 feet under County requirements. The report also points out that County Ordinance Code Section B11-66, which covers State-regulated wastewater systems, does not specify that State-regulated systems must comply with County-adopted OWTS setback standards. The North Diana project proposes to comply with the 5-ft State requirement. Compliance with a 10 foot setback would reduce the developable area, would require modifying the lot layout, and would potentially result in a reduction in the number of lots. If this continues to be a comment as we proceed through the process, we reserve the right to analyze the comment’s applicability to the project in light of the state housing laws, including but not limited to the State Density Bonus Law, SB 330, and the Housing Accountability Act

45. As proposed, the community development consists of 86 proposed water service connections. The proposed service connection exceeds the County of Santa Clara Department of Environmental Health's jurisdiction. Note: Environmental Health is responsible for less than 14 service connections.
  - a. Based upon the number of connections, it appears the proposed water system will be under the jurisdiction of California State Water Resources Control Board, Division of Drinking Water. Obtain from the Division of Drinking Water written documentation that states the provided study meets the State Drinking Water requirements for adequate access to water and is consistent with the State Preliminary Technical Report Guidance, and also includes a Technical, Managerial and Financial report.

**Applicant Response:** We have reviewed the County’s Planning Checklist and written documentation from the Division of Drinking Water that states the provided study meets the State Drinking Water requirements for adequate access to water and is consistent with the State Preliminary Technical Report Guidance, and also includes a Technical, Managerial and Financial report is not required for completeness. The County’s Planning Checklist requires projects that that serve “25 or more people per day for at least 60 days out of the year, or serves 15 or more connections” to comply with the Division of Drinking Water requirement and to provide “a feasibility study that meets the State Drinking Water requirements for adequate access to water and is consistent with the State Preliminary Technical Report Guidance, and also includes a Technical, Managerial and Financial report.” The project has submitted a Preliminary Technical Report (“PTR”) “that meets the State Drinking Water requirements for adequate access to water and is consistent with the State Preliminary Technical Report Guidance” to the State Water Resources Control Board. The Applicant’s project team has met with the Division of Drinking Water regarding the PTR and is preparing a supplement to the report to address comments received. Upon receiving the State’s acceptance of the amended PTR, the approved documentation will be provided to the County. We anticipate that this requirement would be applied to the project as a condition of approval. A copy of the PTR is provided as part of this application submittal. Please see Water Rpt.pdf. Note that Sections 5 and 6 of the PTR discuss the proposed management and projected costs of the water system, including plans for the water system to be owned, maintained, and managed by California American Water Company (“Cal Am”), an established private water utility company in California. This will entail regulatory oversight by the California Public Utilities Commission-Water Division regarding Cal Am’s business operations, customer rate structures and ensuring safe, reliable and compliant water facilities and management. Additional details regarding system management and financing will be submitted to the Division of Drinking Water as part of the formal public water system application, following acceptance of the PTR.