



**PLANNING DIVISION**

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**MITIGATED NEGATIVE DECLARATION**

**I. DESCRIPTION OF PROJECT:**

**Date:** August 30, 2019

**Application #s:** UP2018-0015

**APN:** 767-17-047

**Project Title:** Voices Charter School

**Project Location:** North of Cosmo Avenue, west of Monterey Road, Morgan Hill, California

**Project Proponent:** Pacific West Communities, Inc.  
430 E. State Street, Suite 100  
Eagle, ID 83616  
(949) 599-6069

**Project Description:** The proposed project consists of development of a kindergarten through eighth grade (K-8) public charter school, to be developed in two phases. The proposed public charter school would replace an existing charter school within the City (Voices Morgan Hill), located at 610 Jarvis Drive. Phase I would include development of a 27,825-square foot (sf) school building, an uncovered parking lot, a playground and turf play area, a lunch shelter, a 405-sf trash enclosure, and associated improvements. Phase II would replace the lunch shelter with a 7,326-sf multi-purpose building. Public access to the project site would be provided by a new driveway at Cosmo Avenue, with turn movements limited to right-in and right-out only. In addition, the project would include a separate emergency vehicle only access off Monterey Road, at the northeast portion of the site.

At full buildout (2023/2024 school year), the project would serve up to 504 students. Office hours at the proposed school would be limited to 7:30 AM to 4:30 PM, Monday through Friday. Staff would typically be on-site between 7:00 AM and 6:00 PM. In addition to typical daily operations, the proposed school would host a range of school events including, but not limited to, an annual winter celebration, one to two Kermes/Carnival celebrations per year, a kinder graduation, parent workshops, and parent fundraisers. Furthermore, an afterschool program would be provided for a limited number of students.

Water and sewer service for the proposed school would be provided by the City through connections to existing infrastructure located in the site vicinity. The site would be served by an existing fire hydrant located at the southeast portion of the site adjacent to Monterey Road and Cosmo Avenue, as well as a new hydrant to be located within the proposed parking lot. Stormwater runoff from impervious surfaces within the site would be captured by a series of drain inlets and routed, by way of new underground storm drain piping, to a series of four bio-retention basins located within the eastern portion of the site. The bio-retention basins

would treat and detain all on-site runoff prior to discharging to the City's existing stormwater drain located in Cosmo Avenue.

In order to develop the proposed public charter school within the Mixed Use Flex (MU-F) zoning district, the project would require approval of a Conditional Use Permit (CUP). The project would be consistent with the site's current General Plan land use and zoning designations. The project requires the City's approval of the following entitlements:

- Adoption of an IS/MND and Mitigation Monitoring and Reporting Program; and
- Approval of a Conditional Use Permit.

In addition, subsequent to approval of the above entitlements, the project applicant would be required to obtain a Design Review Permit for approval of a site plan, building elevations, and landscape plans.

## **II. DETERMINATION**

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures will be included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

## **III. MITIGATION AND AVOIDANCE MEASURES**

### **A. Biological Resources**

- IV-1. A pre-construction survey shall be conducted by a qualified Burrowing Owl biologist no more than 30 days prior to initiation of any ground disturbing (construction) activity to assure take avoidance of burrowing owls. The survey shall consist of a habitat assessment, burrow survey, owl survey, and completion of a written report. The written report shall be submitted to the City of Morgan Hill Development Services Department. If owls are not determined to be present on-site, further mitigation is not required. If owls are observed during the preconstruction survey, no impacts to the owls or their habitat will be allowed during the nesting season (February 1 to August 31), and Mitigation Measures IV-2 and IV-3 shall be implemented.*
- IV-2. Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones, with a 250-foot radius from occupied burrows, shall be established. All development-related activities shall occur outside of the exclusion area until the young have fledged. Establishment of the exclusion area shall be determined by a qualified biologist to the satisfaction of the City of Morgan Hill Development Services Department.*
- IV-3. If pre-construction surveys are conducted during the non-breeding season (September 1 through January 31) and burrowing owls are observed on the site, the project proponent shall establish a 250-foot non-disturbance buffer around occupied burrows as determined by a qualified biologist. Construction activities outside of the 250-foot buffer shall be allowed. Construction activities within the non-disturbance*

*buffer shall be allowed if the following criteria are met in order to prevent owls from abandoning important overwintering sites:*

- *A qualified biologist monitors the owls for at least three days prior to construction to determine baseline foraging behavior (i.e., behavior without construction).*
- *The same qualified biologist monitors the owls during construction and finds no change in owl foraging behavior in response to construction activities.*
- *If any change in owl foraging behavior occurs as a result of construction activities, such activities shall cease within the 250-foot buffer.*
- *If the owls are gone for at least one week, the project proponent may request approval from the Habitat Agency that a qualified biologist excavate usable burrows to prevent owls from reoccupying the site. After all usable burrows are excavated, the buffer zone shall be removed, and construction may continue. Monitoring shall continue as described above for the non-breeding season as long as the burrow remains active.*

*Passive relocation of owls shall not be permitted unless the positive growth trend described in Section 5.4.6 of the SCVHP is achieved and all passive relocation measures identified in the SCVHP are implemented. The project applicant may choose to obtain an exception that would allow for passive relocation, in which case an application shall be submitted to the Habitat Agency along with a passive relocation plan in accordance with Section 6.6.1, Condition 15, Exceptions to Passive Relocation Prohibition, of the SCVHP. The Habitat Agency shall have the final authority to grant or deny the requested exception.*

- IV-4. If construction is proposed during breeding season (February 1 to August 31), a pre-construction nesting survey for raptors and other protected migratory birds shall be conducted by a qualified biologist and submitted to the City of Morgan Hill Development Services Department for review no more than 14 days prior to the start of construction. Pre-construction surveys during the non-breeding season (September 1 to January 31) are not necessary for birds, including roosting raptors, as they are expected to abandon their roosts during construction. If these species are deemed absent from the area, construction may occur within 14 days following the survey during the early nesting season (February to May) and within 30 days following the survey during the late nesting season (June to August).*

*If nesting raptors are detected on or adjacent to the site during the survey, a suitable construction-free buffer shall be established around all active nests. The precise dimension of the buffer (250-foot minimum for certain raptors) shall be determined by the qualified biologist at that time and may vary depending on location, topography, type of construction activity, and species. The buffer areas shall be enclosed with temporary fencing, and construction equipment and workers shall not enter the enclosed setback areas. Buffers shall remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents.*

- IV-5. The project applicant shall mitigate for the removal of the Ordinance Sized Tree located at the eastern portion of the site along Monterey Road, as identified in the tree survey prepared for the proposed project, by providing an on-site replacement planting at a minimum 1:1 ratio with 15-gallon minimum size trees.*

*For the Ordinance Sized Trees within the southwestern corner of the site, which are to be preserved as part of the project, the project applicant shall retain a certified arborist to prepare a tree protection plan, subject to review and approval by the Development Services Department. The plan shall demonstrate how any retained trees are to be protected during and after construction. The tree protection plan may include, but not be limited to, the following:*

- *Locate structures, grade changes, etc. as far as feasible from the 'dripline' area of the tree.*
- *Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5 times the 'dripline' area of trees. Where root damage cannot be avoided, roots encountered (over one inch in diameter) should be exposed approximately 12 inches beyond the area to be disturbed (towards tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or power saw, and immediately back-filled with soil. Tearing, or otherwise disturbing the portion of the root(s) to remain, shall be avoided.*
- *A temporary fence shall be constructed as far from the tree stem (trunk) as possible, completely surrounding the tree, and six to eight feet in height. 'No parking or storage' signs shall be posted outside/on the fencing. Postings shall not be attached to the main stem of the tree.*
- *Vehicles, equipment, pedestrian traffic, building materials, debris storage, and/or disposal of toxic or other materials shall not be permitted inside of the fenced off area.*
- *The project applicant shall avoid pruning immediately before, during, or immediately after construction impact. Perform only that pruning which is unavoidable due to conflicts with proposed development. Aesthetic pruning should not be performed for at least one to two years following completion of construction.*
- *Trees that will be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities, with not more than six pounds of actual nitrogen per 1,000 square feet of accessible 'drip line' area or beyond.*
- *The 'rooting' area shall be mulched with an acidic, organic compost or mulch.*
- *The project applicant shall arrange for periodic (Biannual/Quarterly) inspection of tree's condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as such conditions occur, or as appropriate.*
- *Subject to the discretion of the Development Services Department, individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or a more detailed specification than those contained within the above general guidelines.*

*IV-6. No later than submittal of the first construction or grading permit for the proposed project the owner or designee shall pay the Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the project site, as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.132.050 of the Morgan Hill Municipal Code.*

*IV-7. Implement Mitigation Measures IV-1 through IV-5.*

## **B. Hydrology and Water Quality**

*X-1. Prior to submittal to the RWQCB, the Storm Water Pollution Prevention Plan (SWPPP) prepared for the proposed project shall include, to the satisfaction of the City Engineer, Best Management Practices (BMPs) designed to limit the discharge of sediment or other pollutants to West Little Llagas Creek. Such BMPs shall include, but not necessarily be limited to, the installation of silt fencing at the limit of the proposed grading activities.*

## **C. Noise**

*XIII-1. Noise-generating construction activities associated with the proposed project shall not occur within the hours identified in Municipal Code Section 8.28.040(D). The above language shall be included on final project improvement plans prior to approval by the City of Morgan Hill Development Services Department.*

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

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

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

## **D. Transportation**

*XVII-1. Prior to submittal of the improvement plans for the project, the project plans shall show the construction of a raised median along Monterey Road at San Pedro Avenue, restricting left-turns out of San Pedro Avenue to southbound Monterey Road. With the left-turn restriction, only right-turns in and out at both San Pedro Avenue (east leg of the intersection) and the existing driveway (west leg of the intersection), as well as southbound left-turns, shall be allowed. The design of the median shall be to the satisfaction of the Engineering and Utilities Division.*

*XVII-2. Final project improvement plans prepared for the proposed project shall include, to the satisfaction of the City Engineer, installation of a crosswalk at the northern leg of the Monterey Road/Cosmo Avenue intersection and protected phasing on all*

*approaches of the intersection, including modifying the traffic signal to include protected left-turn phasing on the northbound and southbound approaches and split phasing on the eastbound and westbound approaches.*

XVII-3. *The following conditions shall be noted on project construction drawings, to the satisfaction of the City Engineer, prior to issuance of a building permit or approval of improvement plan:*

- *During morning drop-off times at the proposed project, school staff or parent volunteers shall be stationed along the drop-off area to assist students in and out of vehicles and improve drop-off procedures efficiency. Additionally, in order to speed up student pick-up, parents picking up students shall place a name card on the passenger side visor showing the last name and grade level of the child being picked-up so that school staff, positioned at the project driveway, can radio ahead to staff at the drop-off area the name of the student being picked up to ensure the student is ready for pick-up by the time the parent reaches the drop-off area.*
- *Measures shall be taken to ensure efficient utilization of the available queue storage space within the project site and the efficient and safe loading/unloading of the students. The drop-off/pick-up area shall be well-defined with implementation of appropriate signage and pavement markings clearly showing the student loading zone and each vehicle position. The loading lane shall be designed to provide the maximum loading area possible. During drop-off times, school staff shall be positioned along the drive aisle to ensure that students do not unload outside of the designated loading zone.*
- *On-street parking along the southern project site frontage on Cosmo Avenue shall be prohibited. The on-street parking restriction may be permanent (red curb) or time-restricted to the school peak hours only.*
- *The proposed charter school shall implement 30-minute staggered start times; specifically, a start time of 8:00 AM for upper grade levels (sixth through eighth grades) and 8:30 AM for lower grade levels (kindergarten through fifth grades).*

XVII-4. *Final project improvement plans prepared for the proposed project shall demonstrate that double solid striping shall be installed on Cosmo Avenue, along the project frontage to the intersection of Monterey Road/Cosmo Avenue, to prohibit left-turn movements from eastbound and westbound Cosmo Avenue into and out of the project site driveway. The plans shall be reviewed and approved by the City Engineer.*

### III. FINDING

The City of Morgan Hill hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the initial study will reduce the impacts to a less-than-significant level.

  
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Jennifer Carman, Development Services Director

8-22-19  
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Date