



CITY OF MORGAN HILL
Development Services Center – Planning Division

17575 Peak Avenue Morgan Hill CA 95037

APPROVAL CERTIFICATE NO. 21-008

APPLICATION NUMBER: Design Permit SR2020-0028:Spring - Giancola

LOCATION: 335 Spring Avenue (APN 767-11-030)

SITE AREA: 2.7-acres

GENERAL PLAN: Residential Attached Low Density (RAL 6-16 du/ac)

ZONING: Residential Attached Low Density (RAL 3,500)

DESCRIPTION: A Design Permit to allow for the construction of 18 single-family attached units and five single-family detached units with 6,595-square feet of common open space on a 2.7-acre lot. Each residential unit would have an enclosed garage on the ground floor. All residences are proposed to be two-stories tall. Detached units would reach a maximum height of 35-feet while attached units would reach a maximum height of 30-feet. The common open space area includes landscaping, picnic tables, barbecue stations, outdoor seating, and a passive wildlife garden at the northeast corner of the site.

The proposed project provides site access off Spring Avenue with a private driveway that accesses each home. The private driveway will connect to the existing emergency vehicle access (EVA) at Barnell Avenue on the northeast corner of the project site.

The project site includes 41 trees, of which 15 of the trees are considered indigenous species. Out of the 41 trees on-site, 33 will be removed (including seven indigenous trees live oak trees). The project is designed to maintain as many healthy indigenous trees as possible. The live oak trees to be removed were near the northwest corner of the project site. A new park is being proposed at this location and the development has incorporated 5 (24' box) valley oak and include an additional 5 (24' box) valley oak trees near the main entrance of the project off Spring Avenue. Trees and landscaping will be planted in the back and front yard areas of the residential units including common space areas.

RECITALS

1. On November 30, 2020, Joe and Shelia Giancola submitted an application for a Design review permit to construct 23-single family attached and detached units on a 2.7-acre lot with ancillary roadways, common space, and a 6,595 square foot park. The property identified by Assessor Parcel Number 767-11-030 is located at 335 Spring Avenue. Pursuant to Municipal Code Section 18.108.040.C.1 (Design Permit), projects with three

or more residential units must receive Design Permit approval prior to development;

2. The project was reviewed by the Development Review Committee (DRC) at its regular meeting of December 2, 2020 and comments were received from the various departments and agencies;
3. A Tentative Subdivision Map was prepared as a part of this project and was reviewed for compliance with Chapter 17 for Subdivisions within the Municipal Code. After considering the full record which may include but not limited to such things as the staff report, public testimony, and other materials and evidence submitted or provided, the Planning Commission approved Tentative Subdivision Map SD2021-0010 at its regular meeting on October 12, 2021;
4. The proposed project was reviewed in compliance with the California Environmental Quality Act (CEQA). A categorical exemption memorandum has been prepared. At the October 12, 2021 Planning Commission hearing, the project was found to be exempt from CEQA pursuant to Section 15332 as the project does not meet any of the exceptions to categorical exemptions set forth in Section 15300.2 of the CEQA guidelines;
5. California Senate Bill 330 (SB 330) established the "Housing Crisis Act of 2019", effective January 1, 2020, making changes to the local approval process. California Senate Bill 8 (SB 8) will extend the provisions of SB 330 until January 1, 2030. The project, as proposed, is consistent with the General Plan and meets the base zoning standards. The City Council adopted Resolution No. 19-065 on December 18, 2019, implementing the requirements of SB 330 by establishing objective Residential Development Design and Development Standards. The project is subject to the SB 330 permit streamlining process and has been designed consistent with the Residential Development Design and Development Standards, with one concession;
6. Comments received from the public and from the applicant, along with exhibits and drawings and other materials have been considered in the review process;
7. On October 12, 2021 the Development Services Department considered said application at the close of a duly noticed 10-day public comment period for a pending action on the Design Permit SR2020-0028 and considered the Planning Commission decision of the Tentative Subdivision Map for the project site (SD2021-0010) at the October 12, 2021 Planning Commission meeting. A hearing was requested and held and the Design permit approved on November 1, 2021.
8. Pursuant to the authority set forth under Section 18.108.040 (Design Permit) of the Morgan Hill Municipal Code, the Development Services Director hereby approves the project application subject to the conditions contained within this approval certificate.

FINDINGS

SECTION 1. Design Permit Findings

The following findings are made for the purposes of approving a Design Permit in accordance with Section 18.108.040 (J.) of the Morgan Hill Municipal Code.

1. The proposed project is consistent with the General Plan and any applicable specific plan,

area plan, or other design policies and regulations adopted by the City Council.

The Residential Attached Low (RAL) land use designation is intended to accommodate attached homes including duplexes/duets, courtyard homes, townhomes, and garden apartments. RAL areas generally are located in or next to existing residential neighborhoods and close to commercial corridors. This designation allows six to 16-units per net acre. The proposed project will include development of 23 units on the 2.7-acre project site, for a density of approximately 8 units to the acre, which will be consistent with the maximumallowable density for the land use designation.

2. The proposed project complies with all applicable provisions of the zoning code and municipal code.

The Residential Attached Low (RAL 3,500) zone district is intended for low density attached housing types. The proposed project is consistent with the RAL zone district and would comply with the development standards set forth in Section 18.18.030 of the Morgan Hill Municipal Code.

3. The proposed project substantially complies with all applicable design standards and guidelines contained in the City's Design Review Handbook and Design Review Criteria set forth inSection 18.108.040 (H) of the Morgan Hill Municipal Code and the adopted Residential Development Design and Development Standards.

The project is subject to the SB 330 permit streamlining process and has been designed consistent with the City's Design Review Criteria and the City's Residential Development Design and Development Standards adopted by City Council Resolution No. 19-065 on December 18, 2019.

4. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA). At the Planning Commission hearing on October 12, 2021 the Commission found, based on the whole record before them, that the project is exempt from CEQA pursuant to Section 15332 and does not meet any of the exceptions to categorical exemptions set forth in Section 15300.2 of the CEQA guidelines. The custodian of the documents or other material which constitute the record shall be the Development Services Department.
5. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

The 2.7-acre project site is located on Spring Avenue between Barnell Avenue and Lone Hill Drive. The site contains an existing single-family residence with a detached garage and open grassland area. The site is surrounded by single-family residences and duplex/triplex units to the west, multi-family residences to the north and east, and Spring Avenue and a cemetery to the south. The residential project was found to be consistent with the surrounding land uses. The project was determined to not have a significant impact on biological species, traffic, noise, air quality, water quality, utilities, and public services per the review conducted in compliance to CEQA. Therefore, the project will not be detrimental to the public health, safety, or welfare or be materially injurious to the properties or improvements in the vicinity.

SECTION 2. The proposed project will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 3. Pursuant to the authority set forth under Sections 18.100.030, and 18.108.040 of the Morgan Hill Municipal Code, the Development Services Director hereby approves the project application subject to the attached conditions of approval outlined in Exhibit A.

APPROVED THIS 1ST DAY OF NOVEMBER, 2021.



Jennifer Carman
Development Services Director

AFFIDAVIT

I, Sheila Giacola hereby agree to accept and abide by the terms and conditions specified in this approval certificate.

Sheila Giacola
Signature

11-24-21

Date

EXHIBIT "A"
STANDARD CONDITIONS

APPLICATION NO: SR2020-0028

**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 the construction of 18 single-family attached units and five single-family detached units with 6,595-square feet of common open space on a 2.7-acre lot. Each residential unit would have an enclosed garage on the ground floor. All residences are proposed to be two-stories tall. Detached units would reach a maximum height of 35-feet while attached units would reach a maximum height of 30-feet. The common open space area includes landscaping, picnic tables, barbeque stations, outdoor seating, and a passive wildlife garden at the northeast corner of the site

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

- A. Tentative Subdivision Map SD2020-0010
- B. Design Review SR2020-0028
- C. Environmental Assessment EA2020-0021

II. PROJECT ENVIRONMENTAL CONDITIONS

The applicant shall be subject to compliance with the standard conditions set forth in the CEQA Categorical Exemption Memorandum Dated September 24, 2021. The following conditions of approval shall be included with all building permit, grading, or improvement plans.

- A. Standard Condition AIR-1: The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

3. 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.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
5. 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.
6. Replant vegetation in disturbed areas as soon as possible after completion of construction.
7. 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 the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
8. 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.
9. 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. Standard Condition HAZ-1: In conformance with state and local laws, a visual inspection/pre-demolition survey, and sampling, shall be completed by the project applicant's contractor prior to the demolition of on-site building(s) to determine the presence of ACMs and/or lead-based paint.

1. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
2. All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
3. 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.

4. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
5. Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
6. Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
7. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
8. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

C. Standard Condition HAZ-2: Prior to issuance of a grading permit, the project applicant shall research well records from Valley Water and attempt to locate abandoned wells at the site. If the wells are identified, or subsequently encountered during earthwork activities, the wells shall be properly destroyed in accordance with Valley Water Ordinance 90-1. If septic systems are encountered during earthwork activities, those systems shall be abandoned in accordance with Santa Clara County Department of Environmental Health (SCCDEH) requirements.

D. Standard Condition CUL-1: A moderate potential exists for unrecorded historic-period archaeological resources to be within the project area. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply::

1. Within 24-hours of start of grading or earthmoving activity, the archaeologist and Tamien Nation Tribal Monitor shall hold a pre-construction meeting for the purposes of "cultural sensitivity training" with the general contractor or subcontractors.
2. An archaeologist and a Tamien Nation Tribal Monitor shall be present on-site to monitor all ground disturbing activities. Where historical or archaeological artifacts are found, work in areas where remains or artifacts are found will be restricted or stopped until proper protocols are met, as described below:
 - a. Work at the location of the find will halt immediately within 50 feet of the find. If an archaeologist is not present at the time of the discovery, the applicant shall contact an archaeologist for evaluation of the find to determine whether it qualifies as a unique archaeological resource as defined by this chapter.

- b. If the find is determined not to be a Unique Archaeological Resource, construction can continue. The archaeologist will prepare a brief informal memo/letter in collaboration with a tribal representative that describes and assesses the significance of the resource, including a discussion of the methods used to determine significance for the find.
- c. If the find appears significant and to qualify as a unique archaeological resource, the archaeologist will determine if the resource can be avoided and will detail avoidance procedures in a formal memorandum/letter.
- d. If the resource cannot be avoided, the archaeologist in collaboration with a tribal representative shall develop within forty-eight hours an action plan to avoid or minimize impacts. The field crew shall not proceed until the action plan is approved by the community development director. The action plan shall be in conformance with California Public Resources Code 21083.2."
3. If human remains are inadvertently discovered, the following policies and procedures for treatment and disposition of human remains or archaeological materials shall apply:
 - a. The human remains shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personal on a need-to-know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.
 - b. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
 - c. Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.
4. In the event that known or suspected Native American remains are encountered, or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. 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, ground stone 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 exclusion zone as defined below.
5. 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 and tribal representative (typically twenty-five to fifty feet for single burial or archaeological find).

6. 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.
7. 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:
 - a. The City of Morgan Hill Development Services Director (408) 779-7247
 - b. The Contractor's Point(s) of Contact
 - c. The Coroner of the County of Santa Clara (if human remains found) (408) 793-1900
 - d. The Native American Heritage Commission (NAHC) in Sacramento (916) 653-4082
 - e. The Amah Mutsun Tribal Band (916) 481-5785 (H) or (916) 743-5833 (C)
 - f. The Tamien Nation (707)295-4011 (office) and (925)336-5359 (THPO)
8. 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.
9. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD). (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
10. Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.
11. Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Development Services 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 appropriate tribe may be considered and carried out.
12. 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.

E. Standard Condition BIO-1: The following measures will reduce or avoid construction-related impacts to nesting raptors and their nests:

1. Construction shall be scheduled to avoid the nesting season. If construction can be scheduled to occur between September 1st and January 31st

(inclusive) to avoid the raptor nesting season, no impacts will be expected. If construction will take place between February 1st and August 31st, 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. Performance of the required surveys for construction occurring between February 1st and August 31st will ensure that impacts to nesting raptors are reduced to less than significant. Surveys will be completed within 30 days of the on-set of tree removal, site clearing or construction activities. During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., trees, shrubs, buildings) onsite trees as well as all trees within 250 feet of the site for nests. The pre-construction survey shall be submitted to the Development Services Director or the Director's designee for review prior to tree removals or issuance of a grading permit.

2. 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) that will remain off limits to construction until the nesting season is over, 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. A report indicating the result of the survey and any designated buffer zones shall be submitted to the satisfaction of the Development Services Director or Director's designee prior to removal of trees and issuance of a grading permit.

F. Project Condition: A gate shall be installed at the emergency vehicle access point on the project site to prevent project (i.e., proposed residents and guests) traffic from utilizing the Barnell Avenue driveway.

G. Standard Condition NOI-1: The project applicant shall develop a noise construction control plan, which shall be submitted to the Development Services Director or Director's designee for review and approval prior to issuance of a grading or building permit. The noise construction control plan shall include but not be limited to the following construction best management controls:

1. Equipment and trucks used for construction shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds);
2. Impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools; and

3. Stationary noise sources shall be located as far from noise-sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or include other measures.
4. Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary noise barrier fences would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.
5. Unnecessary idling of internal combustion engines shall be strictly prohibited.
6. Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction. Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
7. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
8. Where feasible, temporary power service from local utility companies should be used instead of portable generators.
9. Locate cranes as far from noise-sensitive receptors as possible. • During final grading, substitute graders for bulldozers, where feasible. Wheeled heavy equipment are quieter than track equipment and should be used where feasible. • Substitute nail guns for manual hammering, where feasible.
10. Avoid the use of circular saws, miter/chop saws, and radial arm saws near the adjoining noisesensitive receptors. Where feasible, shield saws with a solid screen with material having a minimum surface density of two pounds per square foot (e.g., such as 0.75-inch plywood).
11. Maintain smooth vehicle pathways for trucks and equipment accessing the site and avoid local residential neighborhoods as much as possible. • During interior construction, the exterior windows facing noise-sensitive receptors should be closed. • During interior construction, locate noise-generating equipment within the building to break the line-of-sight to the adjoining receptors.
12. The contractor shall prepare a detailed construction 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.
13. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. 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. Conspicuously post a telephone number for the

disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

H. Conditions of Approval to Reduce Construction Equipment TAC Emissions. All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards for particulate matter (PM10 and PM2.5), if feasible, otherwise:

1. If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 75 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).
2. Use electrical or non-diesel fueled equipment.

Alternatively, the applicant could develop a separate feasible plan that reduces on- and near-site construction diesel particulate matter emissions by 75 percent or greater. Such a plan would have to be reviewed and approved by the City.

I. Standard Condition HYD-1: The applicant shall implement the following standard condition prior to construction:

1. As required by the State Water Resources Control Board (SWRCB) Order No. 99-08-DWQ, construction activity resulting in a land disturbance of one acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners shall file a complete Notice of Intent (NOI) package and develop a Storm Water Pollution Prevention Plan (SWPPP) in accordance with Section A, B, and C of the General Permit prior to the commencement of soil disturbing activities. A NOI Receipt Letter assigning a Waste Discharger Identification number to the construction site will be issued after the State Water Resource Control Board (SWRCB) receives a complete NOI package (original signed NOI application, vicinity map, and permit fee); copies of the NOI Receipt Letter and SWPPP shall be forwarded for Building and Engineering Division review. The SWPPP shall be made a part of the improvement plans. (SWRCB NPDES General Permit CA000002).

J. Standard Condition HYD-2: In accordance with the City of Morgan Hill Standard Conditions of Approval and the Construction General Permit, the following measures shall be included in the project to reduce construction-related water quality impacts to a less than significant level: The following BMPs shall be implemented during project construction:

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

II. PROJECT CONDITIONS OF APPROVAL

This design permit approval is limited to the plan set with City of Morgan Hill Approval Stamp and city staff signature on file (File Number SR2020-0028 Spring - Giancola) with the Development Services Department. The approved building plans and landscape plans must be in substantial conformance with the SR2021-0028 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 SR2020-0028 approval granted pursuant to this Resolution shall remain in effect for two years from date signed. 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.

SITE DEVELOPMENT

A. **Final Site Development Plans:** Final site development plans shall be reviewed for conformance with SR2020-0028 and in accordance with Morgan Hill Municipal Code Section 18.108.040 (Design Permit) and approved by the Development Services Department prior to issuance of a building permit. All such plans shall include:

1. Detail depicting all concrete curbs as full formed.
2. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing.
3. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities.
4. 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, berthing, 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.

5. 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.

B. **Pedestrian Access:** The Project shall provide pedestrian walkways in compliance with ADA requirements and with Section 18.72.060.H of the Morgan Hill Municipal Code, which states the following:

1. The design of the pedestrian walkway shall be clearly visible and distinguished from parking and circulation areas through striping, contrasting paving material, or other similar method as approved by the Development Services Director.

C. **Parking:** Residents shall use dedicated garages for parking.

D. **Street Names:** Street names, private or otherwise, used to identify building locations shall be submitted at building permit stage to the Planning Division for approval. Proposed street names shall comply with the Street Naming Policy approved by City Council (Resolution No. 4601).

E. **Tree Protection:** Unless tree removal has been previously approved, all trees located within 25 feet of any site disturbance shall be protected using the following minimum protection measures (these guidelines shall be included with all site development plans):

1. Mark all trees to be saved with a survey flag or ribbon. Do not nail or staple directly to the tree.
2. Erect a temporary fence enclosing an area equal to at least the dripline of the tree (or as far from the trunk as possible). This tree protection zone shall not be used for parking, storage of building materials, or other equipment or the placement of temporary or permanent fill. Signs should be posted identifying the restriction of uses in the tree protection zone.
3. Locate structures, grade changes, and other ground or surface disturbances (e.g. concrete pours) as far as feasible from the "dripline" area of the tree.
4. Avoid root damage through grading, trenching, and compaction, at least

within an area 1.5 times the dripline area of the tree. Where root damage cannot be avoided, roots encountered over 1 inch in diameter should be exposed approximately 12 inches beyond the area to be disturbed (towards the 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. Avoid tearing or otherwise disturbing that portion of the roots to remain.

5. The addition of plant or other landscaping materials shall remain outside of the dripline of all trees.
6. All trees proposed to be removed from the project site shall be replaced at a 1:1 ratio. Replacement trees shall be consistent with the City of Morgan Hill Master Street Tree. All replacement trees shall be a minimum of 15-gallons in size. All mitigation/replacement trees shall be shown on the landscape plans and approved by the Development Services Director prior to the issuance of the building/grading permit.
7. Any tree subject to Chapter 12.32 Restrictions On Removal Of Significant Trees of the Morgan Hill Municipal Code requires approval from the Planning Division. The applicant shall request approval prior to removing any significant trees.

BUILDING DESIGN

- A. **Roof mounted mechanical equipment:** All roof mounted mechanical equipment shall be placed within a screened roof top enclosure depicted on the elevation drawings or located below the parapet level and shall not be visible from the ground at any distance from the building. Cross section roof drawings shall be provided at the building permit stage indicating the relative height of the screen wall or parapet. Minimum screen height or parapet depth shall be 5 feet or greater to match the height of any proposed equipment. (**MHARH p.48, 65, 87, 106**)
- B. **Building mounted lighting:** Lighting fixtures shall not project above the facia or roofline of the building. Any ground mounted lighting projecting onto the building or site shall be subject to the review and approval of the Development Services Director. Adjustment to the lighting intensity may be required after the commencement of the use. (**MHARH p. 67, 109**)
- C. **Architectural elements**
 1. All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior.

2. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building.

PARKING, VEHICULAR ACCESS AND LANDSCAPING

- A. **Parking lot landscaping:** All landscaping within parking lots shall comply with the requirements of Chapter 18.72 (Landscaping) in addition to the standards within this section.

1. Interior Landscaping. All areas within a parking lot not utilized for parking spaces or access/circulation shall be landscaped. Interior landscaping is defined as any landscaped area surrounded on at least two sides by parking spaces or drive aisles, and excluding areas around the perimeter of the parcel or development site.
2. **Shade Trees.**
 - a. One shade tree shall be provided for every five parking spaces in a parking lot.
 - b. Shade trees shall be a minimum twenty-four-inch box in size and shall provide a minimum thirty-foot canopy at maturity.
 - c. Shade trees shall be of a type that can reach maturity within fifteen years of planting and shall be selected from a city-recommended list of canopy tree species.
 - d. Shade trees shall be arranged in a parking lot to provide maximum shade coverage (based on a thirty-foot canopy) on August 21. The arrangement should approximate nearly fifty percent shade coverage.
3. **Concrete Curbs.**
 - a. All landscape areas shall be separated from parking spaces, drive aisles and driveways by a continuous, raised concrete curb. Raised concrete curbs shall be a minimum of six inches high by four inches deep.
 - b. The city may approve alternatives to raised concrete curbs as needed to comply with any mandatory stormwater drainage standards.
4. **Parking Space Landscaping.** A maximum of two feet at the front end of a parking space may be landscaped with low shrubs or ground cover in which a vehicle could extend over in lieu of paving surface. This landscaping may not count toward minimum required parking lot landscaped area.

5. **Timing.** Landscaping shall be installed prior to the city's authorization to occupy any buildings served by the parking area, or prior to the final inspection for the parking lot.

B. **Landscape maintenance agreement:** The applicant shall enter into a two-year landscape maintenance agreement effective upon acceptance of landscaping improvements and provide an appropriate bond as required by Section 18.64.070 (Landscaping maintenance and enforcement) of the Municipal Code. Bond amount shall be equal to 100 percent of the value of the landscaping and irrigation improvements for the development project.

C. **Planting and irrigation working drawings:** Detailed landscape planting and irrigation working drawings shall be submitted to the Development Services Director for approval prior to issuance of building permits. Landscape plans for streets and landscape easements shall be part of the improvement plan submittal.

D. **Additional Trees Required:** The detailed landscape planning plan shall incorporate additional trees within the landscape strip adjacent to the northern property line, east of the proposed park. Tree type and size shall be reviewed and approved by the Development Services Director or designee at the time of building permit submittal.

E. **Lighting:** Walkways and pedestrian pathways in landscaped areas or common areas not considered building entrances or a part of parking lot areas shall be illuminated with a minimum of one (1) foot-candle to ensure safe nighttime conditions. **(MHARH p.30, 67, 108)**

1. A final photometric plan shall be provided for review and approval to the Development Services Director prior to issuance of a building permit.

F. **Maintenance of landscaping:** The landscaping installed and accepted with this project shall be maintained on the site as stated within the approved plans. Any alteration or modification to the landscaping shall not be permitted unless otherwise approved by the Development Services Director.

G. **Water Conserving Landscape Ordinance:** The landscape plans shall be in conformance with the City's Water Conserving Landscape Ordinance that was developed in accordance with California law. This Ordinance restricts landscaping turf to certain areas, specifies plant selection, requires certain types of irrigation equipment, and calls for the development of comprehensive water use calculations as an aspect of the submitted landscape plans. **(MHMC 18.64)**

H. **Reciprocal Ingress/Egress Easements:** Prior to issuance of a certificate of occupancy, the property owner shall record an appropriate deed restriction and

covenant running with the land subject to review and approval of the Development Services Director for a reciprocal ingress/egress easement along the common driveway.

SIGNS

A. **Separate application required for sign approval:** Signs proposed for this development shall be designed in conformance with the Sign Ordinance and shall require separate application and approval by the Planning Division prior to installation of any signs.

HABITAT PLAN

A. **Fees:** The approved project is covered pursuant to the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.

B. **Application Package:** Prior to issuance of a grading permit, the project shall complete and submit a Habitat Plan Application Package. All fees shall be paid prior to issuance of a grading permit. **(MHMC 18.132)**

C. **Conditions:** Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt). **(MHMC 18.132)**

AIR QUALITY

A. **Dust, Noise, Vibration and Materials Management Plan:** A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be submitted for review prior issuance of a grading permit and requirements shall be included on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. **(MHMC 18.76)**

1. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
2. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
3. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.

4. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
5. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
6. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
7. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12-inch compacted layer of wood chips, mulch, or gravel.
8. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
9. Minimizing the idling time of diesel-powered construction equipment to two minutes.
10. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
11. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
12. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
13. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy-duty diesel engines.

NOISE

A. **Construction Hours:** The project shall comply with Chapter 8.28 of the Morgan

Hill Municipal Code which prohibits construction activities between 8:00 PM and 7:00 AM, Monday through Friday, and between 6:00 PM and 9:00 AM on Saturdays. Construction activities may not occur on Sundays or federal holidays.

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. **Covenants, Conditions and Restrictions:** The applicant shall provide a set of Covenants, Conditions and Restrictions (CC&R's), Bylaws and Articles of Incorporation, for review and approval by the Development Services Director prior to final occupancy or recordation of a final map. All such CC&Rs shall include the following:

1. The Owners recognize that the use, modification and proper maintenance of the Common Area and public right-of-way(s)* are for the benefit of all citizens of the City of Morgan Hill (City) and that the City is an intended third party beneficiary of these covenants, conditions and restrictions and may, upon notice of hearing as set forth below, exercise the same powers of enforcement as the Association.

*Public right-of-way: Exclusive of streets dedicated to and accepted by the City of Morgan Hill.

2. The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within thirty (30) days of the mailing or delivery of such notice, the City shall have standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.

3. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association.
4. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
5. This section may not be amended without the prior written consent of the Development Services Director for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
6. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance obligation or duty of maintenance is increased by such amendment.

C. **Signed copies of Approval Certificate:** Submit two (2) signed copies of the Approval Certificate to the Planning Division prior to issuance of a building permit.

ENGINEERING DIVISION

PROJECT-SPECIFIC ENGINEERING CONDITIONS

A. **General:**

1. At improvement plan/building permit stage, show the new residential building and foundation on Lot #12 located outside or not encroaching into the proposed 20' storm easement. The City will allow a minor encroachment of the building's roof overhang over the 20' easement, if necessary.

2. At improvement plan/building permit stage, show the extents of the proposed emergency vehicle access/path on the adjacent easterly parcel, past the project's easterly property line and to Barnell Avenue. The project shall verify the existing pavement structural section of the emergency vehicle access on the easterly parcel and provide pavement design section improvements for adequate fire equipment access.

B. **Final Map:** The project's final map shall be approved by the City Council prior to issuance of a grading permit. (**MHMC 17.20.390; 17.24.210**)

C. **Reciprocal Access:** Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the final map. (**MHMC 17.20.350 H**)

D. **Stormwater Management:**

1. The Geotechnical Investigation Report prepared by Silicon Valley Soil Engineering dated November 2020 stated that the stormwater management, structure, foundation design, and calculations are not part of the geotechnical investigation or scope. At improvement plan/building permit stage, submit a Geotechnical Engineer's letter/report update that provides the Geotechnical Engineer's approval of the proposed underground stormwater storage facility design and recommendations that include the acceptable building setback of Lot 13 from the proposed underground stormwater storage facility.
2. At improvement plan/building permit stage, the project shall comply with the following:
 - a. The Final SWCP report shall include the plan sheets for the stormwater details, DMA map, and grading and drainage plans.
 - b. The final SWCP report shall include a discussion on the underground storage facility's closed bottom system design with no infiltration due to the seasonal high groundwater levels and this should be reflected as a site condition in the Technical Infeasibility Checklist.
 - c. Clarify the total provided storage for the underground stormwater storage facility.
 - d. Include a detail of the underground storage facility.
 - e. Submit supporting calculations for the 41-hour drawdown time for the underground storage facility. The HydroCAD model results and hydrographs shall show the same drawdown times.
 - f. Submit a letter from Contech, manufacturer of the proposed Storm Filter, and include as an attachment to the final SWCP. Also include the sizing calculations to show how the proposed Storm Filter meets the requirements of Performance Requirement No. 2.

- g. The "undisturbed or planted areas" in the front yards and backyards of each of the lots shall meet the requirements for self-retaining. During improvement plan/building permit stage, confirm that the retention tributary area (RTA) has been calculated correctly as this determines the required Performance Requirement No. 3 retention volume.
- h. Provide confirmation that the bio-swale model inputs reflect the current design.
- i. Provide a table showing the required Performance Requirement No. 3 retention volume for the public hardscape not being treated and the excess storage provided on site to show in lieu treatment is provided on site. Include a discussion in the SWCP.
- j. Provide preliminary information on how the pretreatment device can be inspected and maintained during its design life and to ensure the pretreatment measure meets Valley Water's requirements to maintain groundwater quality.
- k. Provide a detailed plan of the proposed retaining wall and its associated subdrainage system along the eastern property boundary. The detailed plan shall ensure the retaining wall does not impact the operations, maintenance, and inspection of the adjacent bioretention planters, located in the rear yards of Lots 1 through 12. The project shall also provide a review letter that is signed and stamped by the project's geotechnical engineer stating that the retaining wall is in conformance with the project's geotechnical investigation and recommendations. The letter shall review and address the adjacent bioretention planters' design and proximity to the retaining wall.
- l. Show the required protection of the bio-swales and underground chamber system during construction. This will include clearly marking the facilities, protection of the facilities from siltation and compaction, etc. Guidance can be found in the LIDI Technical Assistance Memo at https://storage.googleapis.com/centralcoastlidi-org/uploads/LIDI_ConstructionTAM_20140.11.20.pdf

3. The locations of the clean outs in the underground stormwater storage facility and the proposed plantings in the Landscaping Plans will be reviewed in detail at improvement plan/building permit stage to ensure that the clean outs are accessible for maintenance.

E. Street Improvements:

- 1. The new driveway approach at Spring Avenue shall have a maximum width of 35'.
- 2. The project shall underground past the project's Spring Avenue frontage to the west, in front of APNs 767-11-031 & 767-11-032, and the City will

reimburse the developer for this undergrounding work that is not the developer's responsibility. The details of the undergrounding and reimbursement will be finalized at improvement plan/building permit stage.

3. In conjunction with the required overhead utility undergrounding along the project's Spring Avenue frontage, the project shall install a new standalone streetlight per City Standards along the Spring Avenue frontage to replace the existing streetlight that is on the existing overhead joint pole.
4. Detailed review of the proposed frontage improvements along Spring Avenue, including Broadband design, will be performed at the improvement plan stage. Refer to the City's Broadband Standards for the design of the broadband conduit.
5. At improvement plan stage, the project shall evaluate the pavement condition of Spring Avenue and improve the street, as necessary, to meet current City standards for collector streets. Evaluation may involve pavement core sampling at multiple locations to the satisfaction of the City Engineer.
 - a. If the existing pavement condition does not meet current City Standards, the project shall remove and replace the existing section of the asphalt concrete pavement on Spring Avenue. The minimum required street improvement shall be a two-inch removal and replacement of the existing asphalt concrete pavement along the project's Spring Avenue property frontage and up to the street centerline.

F. Utilities:

1. The water main and water meters along the private drive aisle will be public.
2. At improvement plan/building permit stage, add a junction/test sanitary sewer manhole upstream of the connection to the existing 10" sanitary sewer line near the northerly property line.
3. The onsite sanitary sewer lines and sewer laterals are required to be private.
 - a. Prior to final map approval/building permit issuance, the Owner(s) shall enter into a Private Sanitary Sewer Maintenance Agreement with the City for maintenance of all private sanitary sewer facilities which includes the private sewer mains and sewer laterals. The Agreement shall be recorded at the County Recorder's Office prior to building final.

G. Parkland Dedication/Parkland Fee In-Lieu: This project is subject to the Parkland Dedication and Parkland Fee In-Lieu requirements (MHMC 17.28).

1. The developer shall pay fees, in-lieu of parkland dedication, at the time of filing of the project's final map to meet the parkland obligation. The project's parkland obligation will be calculated using the formula shown in MHMC Section 17.28.060.

2. Private recreation credits, which could allow a credit of up to 40% towards the parkland obligation, could be available for private open space(s) within the subdivision that meets the standard requirements listed in MHMC Section 17.28.130.

STANDARD ENGINEERING CONDITIONS

I. GENERAL

- A. **Final Map:** The applicant shall have a Final Map prepared by a registered engineer (licensed prior to 01/01/1982: registration number 33,965 or lower) or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be set as required by the City Engineer. **(MHMC 17.20.200 A; 17.20.290; 17.24.010)**
- B. **Public and Private Improvements:** The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. **(MHMC 12.02.090 A; 17.32.010 A)**
- C. **Improvement Plans:** The applicant shall submit as part of the improvement plans for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the City Engineer prior to submittal of Final Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**
 1. Improvement plans are to show water lines, sanitary Sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- D. **Encroachment Permit:** Obtain an encroachment permit from the City of Morgan Hill and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**
- E. **Subdivision Improvements Agreement:** Enter into a Subdivision Improvements Agreement with the City of Morgan Hill to cover required improvements. **(MHMC 12.02.150; 17.32.010 B; 17.32.160)**
- F. **Impact Fees & Fee Increase:** The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established impact fees to finance the cost of improvements required by new development. City Code Chapter 3.56.050

provides for automatic annual (July 1st) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. The City maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours. **(MHMC 3.56.010; 3.56.030; 3.56.050)**

1. The developer shall pay all applicable impact fees and other engineering review fees prior to building permit issuance and at building final. The fees shall be based on the Public Works Fee Schedule prepared by Land Development Engineering.

II. STREET IMPROVEMENTS

- Public and Private Streets:** The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the City Engineer. All street improvements shall be constructed to the satisfaction of the City Engineer. The timing of the improvements will be determined by the City. **(MHMC 12.02.010; 12.02.090; 17.32.060 B; CMH General Plan; CMH Design Standards and Standard Details for Construction)**
- Installation and Dedication of Streets:** The project shall install and dedicate street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting in conformance with City of Morgan Hill requirements. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010; 17.32.060)**
- Underground existing utilities:** All existing overhead utilities adjacent to any site boundary or along any street frontage of site shall be placed underground in accordance with City standards and affected utility company guidelines. **(MHMC 12.02.090 B; 17.32.020 E.1)**
- Street Trees:** The proposed street trees shall comply with the street tree species and spacing listed under the applicable zone in the Master Street Tree List of the City's Master Street Tree Plan.

III. SANITARY SEWER SYSTEM

- A. **Design of Sewer Improvements:** The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on the proposed public street(s) or private street(s)/drive aisle(s). The sanitary collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye-branches and laterals, and separate sewer taps to each lot. These are to be installed by the developer. **(MHMC 13.20.355; 17.32.020 C; CMH Sewer System Master Plan; CMH Design Standards and Standard Details for Construction)**
- B. **Sewer Connection:** All existing and future sewer lines shall be tied into the City's system and existing septic systems shall be abandoned in accordance with City requirements. **(MHMC 13.24.060; 17.32.20 C)**

IV. STORM DRAIN SYSTEM

- A. **Storm Drainage Study:** A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the City Engineer. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. **(MHMC 17.32.020 B; 17.32.090; CMH Design Standards and Standard Details for Construction)**
- B. **Storm Drainage Design:** The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Design Review plans. All storm drain improvements shall be constructed to the satisfaction of the City Engineer. **(MHMC 17.32.020 A & B)**
- C. **Storm Drainage Capacity:** Collection system shall be designed to be capable of handling a 10-year storm without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity. Streets shall be designed to carry 100-year storm. Items of construction shall include, but not be limited to installation of storm line extension on proposed public street(s), surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. Note: the project may be required to retain stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows. **(MHMC 17.32.020 B; 18.74.440; CMH Design Standards and Standard Details for Construction; CMH Storm Drainage System Master Plan)**

D. **Storm Drainage General Requirements:** Prior to issuance of a grading permit, the applicant shall complete the following to the satisfaction of the City Engineer.

1. Storm drain calculations to determine detention/retention pond sizing and operations.
2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.

(CMH Design Standards and Standard Details for Construction)

E. **NPDES Construction Activity General Permit/SWPPP Requirements:** As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number to be issued to the construction site after the SWRCB receives and verifies the submitted ONLINE NOI information. The WDID number and approved SWPPP Manual shall be provided to Public Works and the Building Department prior to any approval of grading activities (**SWRCB NPDES General Permit CA000002**).

F. **NPDES GENERAL PERMIT SITE SWPPP INSPECTIONS AND COMPLIANCE:**

1. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP or RCE)**.

2. SWPPP Inspections shall occur weekly during the rainy season (September 15th thru May 1st).
3. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
4. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.
5. Per each of the inspection conditions 2, 3, or 4, SWPPP inspection reports, and when applicable, Rain Event Action Plans (REAPS) shall be e-mailed to: sw.construction@morganhill.ca.gov no later than 12:00 PM each Monday for the previous week's inspections with a brief statement whether the site is in compliance or non-compliant.
6. Prior to rain events, BMPs not in compliance will need to be corrected immediately.
7. Illicit discharges per the NPDES General Permit, non-compliance of tracking control, and inlet protection within the public right-of-way shall be addressed immediately.
8. Other non-compliance issues need to be addressed within a 24-hour period.
9. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow-up inspection.
10. BMP maintenance/inspections shall include tree protection, if applicable.

V. WATER SYSTEM

- A. **Domestic Water System:** The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the City Engineer. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the City Engineer and dedicated to the City. (**MHMC 17.32.020 A & D; CMH Design Standards and Standard Details for Construction; CMH Water System Master Plan**)
- B. **Water Well Abandonment:** Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD)

Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.

- C. **Water Line Extension:** Install water line extension on the proposed public streets and/or private streets. **(MHMC 17.32.020 A & D; CMH Water System Master Plan)**
- D. **Water Meters:** Provide separate water services and meters for each lot. These are to be installed by developer. **(MHMC 17.32.020 D)**

VI. OTHER CONDITIONS

- A. **Easement Dedications:** The owner shall dedicate all necessary utility easements. **(MHMC 12.02.080 D; 17.28.010 A)**
- B. **Undergrounding New Utilities:** The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the City Engineer. **(MHMC 17.32.020 E.1)**
- C. **Landscaping and Irrigation Systems:** Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this project shall be continuously maintained by the property owner or designated maintenance entity.
- D. **Final Landscape Plans:** Final landscape plans shall be submitted with and included as part of the improvement plans for the project. **(MHMC 17.08.090)**
- E. **Pre-construction Meeting:** Prior to the approval of any Building Permit for grading activity, the developer shall schedule a pre-construction meeting with the Public Works Inspection Division with the following project team members:
 1. Civil Engineer of record
 2. Geotechnical Engineer of record
 3. Third Party QSD/QSP SWPPP Inspector
 4. General Contractor
 5. Sub-Contractors

F. **As-Built Submittal Standards:** The developer shall submit digital as-builts of the project's Final Map, Grading Plan, and Improvement Plans which adhere to the City's updated GIS/CAD Developer Submittal Standards.

VII. NPDES STORMWATER MANAGEMENT DEVELOPMENT STANDARDS

A. **Stormwater Post Construction Requirements (PCRs):** Project shall comply with the California Regional Water Quality Control Board Central Coast Region Resolution No. R3-2013-0032 as documented by the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements (developed from Resolution No. R-2013-0032 Attachment 1 and 2 at: http://www.waterboards.ca.gov/centralcoast/water_issues/programs/storm_water/docs/lid/lid_hyromod_charette_index.shtml). A copy of the Guidance Manual can be obtained from the City's Land Development Engineering webpage. Project shall provide Stormwater Runoff Management Plan, Stormwater Control Plan and Checklist, and applicable calculations per the Guidance Manual. Project shall meet the applicable Post-Construction Requirements:

1. Performance Requirement 1: Site Design and Runoff Reduction
2. Performance Requirement 2: Water Quality Treatment
3. Performance Requirement 3: Runoff Retention
4. Performance Requirement 4: Peak Management

B. **Peak Storm Water Runoff Discharge Rates:** Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion. Note: the project may be required to retain stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows.

C. **Storm Drain System Stenciling and Signage:** All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: "NO DUMPING – DRAINS TO CREEK") and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area. Legibility of stencils and signs must be maintained.

D. **Design Standards for Structural or Treatment Control BMPs:** The post-construction treatment control BMPs shall incorporate, at a minimum, either a volumetric or flow- based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) storm water runoff:

1. Volumetric Treatment Control BMP
 - a. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or
 - b. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or
 - c. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for “treatment” that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.
2. Flow Based Treatment Control BMP
 - a. The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area; or
 - b. The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.

E. Stormwater Runoff Management Plan (SWRMP): The Stormwater Runoff Management Plan shall include sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures (post construction BMPs) proposed for managing stormwater runoff.

1. The Stormwater Runoff Management Plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved Stormwater Runoff Management Plan.
2. The developer shall provide a signed certification from the civil engineer responsible for preparing the Stormwater Runoff Management Plan that all stormwater best management practices have been designed to meet the requirements of this chapter.

F. Stormwater BMP Operation, Maintenance, and Replacement Responsibility:

1. Prior to building final, the property owner shall submit a signed certification (with signature, date & license number/seal) certifying that all post-construction stormwater management/BMP facilities shown on the as-built drawings were inspected by the civil engineer (or by a qualified 3rd party stormwater inspector hired by the permittee/owner) and have been constructed in accordance with the approved plans and specifications.
2. All on-site stormwater management facilities shall be operated and maintained in good condition and promptly repaired/replaced by the property owner(s), an owners' or homeowners' association or other legal entity approved by the City.
3. Any repairs or restoration/replacement and maintenance shall be in accordance with City-approved plans.
4. The property owner(s) shall develop a maintenance schedule for the life of any stormwater management facility and shall describe the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be included with the approved Stormwater Runoff Management Plan.

G. Stormwater BMP Operation and Maintenance Agreement (SWBOMA): Prior to the issuance of any building permit requiring stormwater management BMPs, the owner(s) of the site shall enter into a formal written Stormwater BMP Operation and Maintenance Agreement with the City. The City shall record this agreement, against the property or properties involved, with the County of Santa Clara and it shall be binding on all subsequent owners of land served by the storm water management BMPs. The City standard Stormwater BMP Operation and Maintenance Agreement will be provided by Land Development Engineering at building permit/improvement plan stage.

H. Stormwater BMP Inspection Responsibility:

1. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a Registered Civil Engineer (RCE).
2. Unless otherwise required by the City Engineer or designee, stormwater facility inspections shall be done at least twice per year (April 15th and September 15th) by the RCE. Written records shall

be kept of all inspections and shall include, at minimum, the following information:

- a. Site address;
- b. Date and time of inspection;
- c. Name of the person conducting the inspection;
- d. List of stormwater facilities inspected;
- e. Condition of each stormwater facility inspected;
- f. Description of any needed maintenance or repairs; and
- g. As applicable, the need for site re-inspection.

3. Upon completion of each inspection, an inspection report shall be submitted to the City.

I. **Records of Maintenance and Inspection Activities:** On or before April 15th and September 15th of each year, the party responsible for the operation and maintenance of on-site stormwater management facilities under the BMP Operation and Maintenance Agreement shall provide the City Engineer or designee with records of all inspections, maintenance and repairs.

J. **Annual Certification of SWRMP:** On or before September 30th of each year, a Registered Civil Engineer (RCE) shall provide written certification that the project's stormwater quality design standards are properly maintained and functioning as required by the SWRMP.

BUILDING DIVISION

A. **The following items need to be incorporated into the design and will be verified at Building Permit application plan review:**

1. Project shall be designed to comply with the 2019 California Codes of Regulations as amended by the Morgan Hill Municipal Code Title 15.
2. All on-site park elements shall be accessible.
3. Project is in a Fire Hazard Area and shall comply with Wildland-Urban Interface requirements.
4. Project shall comply with the Morgan Hill Municipal Code (MHMC) including but not limited to:
 - a. MHMC 15.65 Sustainable Building Regulations.
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT15BUCH15.65SUBURE
 - b. MHMC 15.40 Building Security
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT15BUCH15.40BUSE

- c. MHMC 15.38 Wage Theft Preventions
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT15BUCO_CH15.38WATHPR
- d. MHMC 18.148 Water Conservation
https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT18ZO_DIVIIDEO_CH18.148WACO
- e. MHMC 15.63 Prohibition of Natural Gas Infrastructure in New Buildings
 - i. https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT15BUCO_CH15.38WATHPR

5. An acoustical analysis report shall be submitted with the building permit documents showing interior and exterior noise mitigations for compliance to the MHMC and California Building Code.
6. A Geotechnical Report is required for this project.
7. A separate Building Permit will be required for demolition of existing structures.
8. A separate Building Permit will be required for grading and on-site development

B. Compliance with Morgan Hill Municipal Code: Project shall comply with the Morgan Hill Municipal Code (MHMC) including but not limited to:

1. MHMC 18.72.040 C. Electric Vehicle Charging.
When Required. Electric vehicle charging stations shall be provided:
 - For new structures or uses required to provide at least twenty-five parking spaces; and
 - Additions or remodels that increase an existing parking lot of fifty or more spaces by ten percent or more.Number of Charging Stations. The number of required charging stations shall be as follows:
 - Twenty-five to forty-nine parking spaces: One charging station.
 - Fifty to one hundred parking spaces: Two charging stations, plus one for each additional fifty parking spaces.

FIRE DIVISION

A. Preliminary Review Only: The requirements and conditions stated in this review are preliminary and are intended to be used for the purposes of project planning. An official Fire Department review of the project will be conducted upon receipt of a complete plan submittal application that clearly shows all intended grading, demolition, construction or building modifications.

B. Underground Fire Service: A separate building permit is required to illustrate the underground fire service. The plans will need to illustrate the onsite hydrant(s) and any details or sizing for each hydrant.

- C. **Fire Apparatus (Engine) Access Roads Required:** Prior to the commencement of combustible construction, an access roadway with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet, 6 inches shall be provided, with minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%, unless otherwise approved in writing by the Fire Marshal. Installations shall conform to the City of Morgan Hill Standard Details and Specifications 11-B.
- E. **Fire Hydrant Location Identifier:** Prior to project final inspection, the general contractor shall ensure that an approved ("Blue Dot") fire hydrant location identifier has been placed in the roadway, as directed by the fire department.
- F. **Timing of Required Roadway Installations:** Prior to the commencement of combustible construction, the required roadway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the City of Morgan Hill unless otherwise approved in writing by the Fire Marshal. Bulk combustible construction materials shall not be delivered to the construction site until installations are completed as stated above. During construction, emergency access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed.
- G. **Timing of Required Water Supply Installations:** Prior to the commencement of combustible construction, the required Fire Hydrant and Water Supply installations shall be in place, inspected, tested, and accepted by the Fire Department and the City of Morgan Hill, unless otherwise approved in writing by the Fire Marshal. Bulk construction materials may not be delivered to the construction site until installations are completed as stated above. Clearance for building permits may be held until installations are completed.
- H. **Fire Lane Marking Required:** Provide marking for all roadways within the project. Markings shall be per fire department specifications. Installations shall also conform to Local Government Standards and the City of Morgan Hill Standard Details and Specifications 11-F.
- I. **Automatic Fire Sprinkler System Required:** Buildings requiring automatic fire sprinkler system shall be equipped throughout with an approved automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA) Standard #13.
- J. **Private on-site Fire Service Mains and Hydrants:** Installations shall conform to National Fire Protection Association Standard #24, and the City of Morgan Hill Standard Details and Specifications. Provide plan submittal to the City of Morgan Hill for review and approval prior to installation.

HOUSING DIVISION

- A. **Inclusionary Housing Agreement:** The developer shall execute and record an Inclusionary Affordable Housing Agreement with the City prior to issuance of a building permit. **(MHMC 14.04.050)**
- B. **BMR Standards:** The Below Market Rate (BMR) units shall comply with the BMR standards.

BMR standards:

- 1. Location. BMR units shall be distributed evenly throughout the project.
- 2. Lot Size. Lot size shall be at least the same size as the smallest lot of a market rate unit within the project;
- 3. Bedroom Count. Average bedroom count shall be the same as the average bedroom count in the market rate units in the project;
- 4. Exterior. Exterior trim entry door hardware, and finish to the same standard as the Market Rate
- 5. Minimum standards for equipment, fixtures, appliances and finishes have been established for the BMR units. All items installed by the developer shall be of good quality and in new condition. Good quality shall be deemed as entry level but generally not the lowest level of product offered for that application. All products shall offer durability, reliability and maintain a quality appearance and function that is standard to most other median priced homes in the area. The below listed items must be installed as a basic feature of each BMR home.
- 6. Minimum Interior standard finishes will be as follows:
 - a. All closets shall have doors
 - b. Interior doors to be raised panel type or same as market rate
 - c. Door hardware to be brass finish or equivalent
 - d. Appliances shall be major brand name
 - e. Microwave with an exhaust vent shall be installed over the range
 - f. Kitchen counters shall be white ceramic tile
 - g. Kitchen cabinets shall be stained wood with white melamine interiors
 - h. Units will be roughed in for AC including electrical and line set
 - i. Basic alarm system to secure all accessible openings to the home
 - j. Carpet in bedrooms, hallways, family rooms
 - k. Linoleum or tile entry, bathroom kitchens
 - l. Laminate flooring may substitute for carpet or linoleum
 - m. Electric garage door opener
- 7. Timing of Construction. BMR units shall be constructed in proportion to the BMR ownership housing requirement applicable to the project. At least one

BMR unit shall be constructed before or concurrently with every 5th market rate unit constructed. The last market rate unit to be completed in the project may not receive a certificate of occupancy until the last BMR unit has received a certificate of occupancy. The Director may approve a modified schedule if the timing requirement will create unreasonable delays in the issuance of certificates of occupancy for market rate units.