CITY OF MORGAN HILL

Regular Meeting Agenda

Planning Commission

Wayne Tanda - Chairman
Michael Orosco - Vice Chairman
John McKay - Planning Commissioner
Joseph Mueller - Planning Commissioner
Liam Downey - Planning Commissioner
Mohammad Habib - Planning Commissioner
Yvonne Martinez Beltran - Planning Commissioner

Tuesday, May 23, 2017 7:00 PM

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

CALL TO ORDER

DECLARATION OF POSTING AGENDA

Pursuant to Government Code Section 54954.2

OPEN PUBLIC COMMENT PERIOD

Members of the public are entitled to address the Planning Commission concerning any item within the Morgan Hill Planning Commission's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the Planning Commission is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

ORDERS OF THE DAY

CONTINUED PUBLIC HEARING

1. **DEVELOPMENT AGREEMENT AMENDMENT, AAE2017-0013, ZONING AMENDMENT, AAE2017-0021, SUBDIVISION AMENDMENT, AAE2017-0022: BUTTERFIELD - DIVIDEND: REQUEST FOR APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT, ZONING AMENDMENT AND SUBDIVISION AMENDMENT TO ADD SIX LOTS; APPROVE A SIX-MONTH EXTENSION TO THE COMMENCEMENT OF CONSTRUCTION DEADLINE (FISCAL YEAR 2016-2017); THE PROPERTY, IDENTIFIED BY ASSESSOR PARCEL NUMBERS 726-26-005 AND 008, ARE LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BUTTERFIELD BOULEVARD AND CENTRAL AVENUE (MH VALENCIA 2015 INC., OWNER). CEQA: ADOPTED MITIGATED NEGATIVE DECLARATION**

   Recommendation:

   1. Open/close public hearing;
   2. Adopt Resolution A - Recommend City Council approve Development Agreement Amendment;
   3. Adopt Resolution B - Approve amendment to Precise Development Plan and Planned Development Overlay; and
   4. Adopt Resolution C - Approve amendment to the Non-Vesting Tentative Map.

PUBLIC HEARINGS

2. **PUBLIC HEARINGS: CONSIDER DEVELOPMENT AGREEMENT AMENDMENTS FOR EAH AFFORDABLE HOUSING SCATTERED SITE PROJECT; APPROVE A SIX-MONTH EXTENSION OF TIME TO THE COMMENCEMENT OF CONSTRUCTION DEADLINE (FISCAL YEAR 2016-2017).**

   Recommendation:

   1. Open/conduct public hearing on requests A though C;
   2. Adopt Resolutions approving extensions of allotments due to rain delays:
      a. Resolution A
      b. Resolution B
      c. Resolution C

A. AAE2017-0023 (DA-15-06): Monterey - EAH (Belle Salici)

Development Agreement Amendment, AAE2017-0023: Monterey - EAH: Request for approval of a Development Agreement Amendment for 19 affordable, multi-family apartments and 1,000-square feet of office/commercial space on a 0.966-acre site. The property, identified by Assessor Parcel Number 817-03-055, is located on east side of Monterey Road and west side of Keith Way, north of East Edmundson Avenue (Orchards Morgan Hill L.P., Owner). CEQA: Adopted Mitigated Negative Declaration.

B. AAE2017-00024 (DA-15-07): Ciolino - EAH (Belle Noci)

Development Agreement Amendment, AAE2017-0024: Ciolino - EAH: Request for approval of a Development Agreement Amendment for eight affordable, multi-family apartments on a 0.295-acre site. The property, identified by Assessor Parcel Number 767-09-029, is located on south west corner of Ciolino Avenue and Monterey Road (Orchards Morgan Hill L.P., Owner). CEQA: Adopted Mitigated Negative Declaration.

C. AAE2017-0025 (DA-15-08): East Dunne - EAH (Bella Allori)

Development Agreement Amendment, AAE2017-0025: East Dunne - EAH: Request for approval of a

Development Agreement Amendment for 14 affordable, multi-family apartments and 1,200-square feet of commercial space on a 0.584-acre site. The property, identified by Assessor Parcel Number 817-01-080, is located on south side of East Dunne Avenue between Monterey Road and Church Street (Orchards Morgan Hill L.P., Owner). CEQA: Adopted Mitigated Negative Declaration.

ANNOUNCEMENTS

ADJOURNMENT

NOTICE

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the legislative body less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the legislative body. (Pursuant to Government Code 54957.5)

PUBLIC COMMENT

Members of the Public are entitled to directly address the Commission concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Commission on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Commission Chambers, and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Commission, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the Commission on any other item of interest to the public, you may do so by during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the Commission.

Persons interested in proposing an item for the Commission agenda should contact a member of the Commission who may plan an item on the agenda for a future Commission meeting. Should your comments require Commission action, your request may be placed on the next appropriate agenda. Commission discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the Commission at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the Commission, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of Commission Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email michelle.wilson@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email michelle.wilson@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.

Sustainable Morgan Hill Vision

Morgan Hill is a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all.

CITY COUNCIL ONGOING PRIORITIES

Enhancing Public Safety · Protecting the Environment · Maintaining Fiscal Responsibility · Supporting Our Youth, Seniors, and Entire Community · Fostering a Positive Organizational Culture · Preserving and Cultivating Public Trust · Preserving Our Cultural Heritage

2017 STRATEGIC PRIORITIES

High Speed Rail

Inclusiveness

Infrastructure

Regional Initiatives

Telecommunications

2017 STRATEGIC PRIORITIES:

High Speed Rail

The City of Morgan Hill will directly advocate for our community's needs through our communications, discussions, and decisions. We will continue to engage the community, the High Speed Rail Authority, our state and federal legislators, and other regional agencies to mitigate negative impacts and convey our position that the High Speed Rail Authority should only use the existing Highway 101 right-of-way to avoid all impacts to residents, schools, and businesses. Should the Authority decide the 101 right-of-way is not feasible, we will strongly advocate for the route with the least impact on Morgan Hill.

Inclusiveness

We will celebrate the diversity, history, and culture of our community. Through City Council workshops, community meetings, and researching successes in other communities, the City will listen to and collaborate with the community to define how inclusiveness will be further woven into our community's fabric and to increase public participation. The City's communications, services, public spaces, and projects will embrace all community members as partners, advancing our vision of being a socially responsible community.

Infrastructure

The City will review its streets, parks, and public facilities infrastructure needs initially by updating its 2014 infrastructure study to quantify the funding gap. We will identify potential funding options as ongoing revenue is insufficient to fund our vital community assets at a sustainable level without significantly impacting existing service levels that our community has come to expect. Morgan Hill will actively work with the Valley Transportation Agency, the County, and the State to secure funding for the Santa Teresa extension and road maintenance. We will continue to work closely with our community to inform them of the needs and engage them to find an affordable and sustainable solution.

Regional Initiatives

City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. This regional involvement will include, but not be limited to, partnering with the League of California Cities, Valley Transportation Authority, Santa Clara Valley Water District, Cities Association of Santa Clara County, the City of Gilroy, Santa Clara County, Morgan Hill Unified School District, the Local Agency Formation Commission, the Open Space Authority, and Silicon Valley Clean Energy to advance projects that further Sustainable Morgan Hill.

Telecommunications

The City will collaborate with the private sector to explore ways to provide fast, reliable access and wireless connectivity for residents and businesses. The 2016 Telecommunications Infrastructure and Economic Development Blueprint reports will be the foundation for continuing discussions with broadband providers, public utilities, and other infrastructure service providers in developing an implementation plan for growing our telecommunications infrastructure. The plan will be used to signal Morgan Hill's support for business expansion.

CITY OF MORGAN HILL

PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 23, 2017

PREPARED BY: Jim Rowe, Contract Planner
APPROVED BY: Jennifer Carman, Community Development Director

DEVELOPMENT AGREEMENT AMENDMENT, AAE2017-0013, ZONING AMENDMENT, AAE2017-0021, SUBDIVISION AMENDMENT, AAE2017-0022: BUTTERFIELD - DIVIDEND: REQUEST FOR APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT, ZONING AMENDMENT AND SUBDIVISION AMENDMENT TO ADD SIX LOTS; APPROVE A SIX-MONTH EXTENSION TO THE COMMENCEMENT OF CONSTRUCTION DEADLINE (FISCAL YEAR 2016-2017); THE PROPERTY, IDENTIFIED BY ASSESSOR PARCEL NUMBERS 726-26-005 AND 008, ARE LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BUTTERFIELD BOULEVARD AND CENTRAL AVENUE (MH VALENCIA 2015 INC., OWNER). CEQA: ADOPTED MITIGATED NEGATIVE DECLARATION

RECOMMENDATION(S)

1. Open/close public hearing;
2. Adopt Resolution A - Recommend City Council approve Development Agreement Amendment;
3. Adopt Resolution B - Approve amendment to Precise Development Plan and Planned Development Overlay; and
4. Adopt Resolution C - Approve amendment to the Non-Vesting Tentative Map.

LOCATION MAP

PROJECT SUMMARY:

1. Location: Northwest corner of East Central Avenue and Butterfield Boulevard (APN 726-26-005 and 008)
2. Site Area: 15.72 acres
3. General Plan: Residential Attached Low and Residential Attached Medium
4. Zoning: R1 4,500 (PD) and R2 3,000 (PD)
5. Request: Development Agreement Amendment, Zoning Amendment and Tentative Subdivision Map Amendment to allow a six-month extension of time on 41 Fiscal Year 2015-2016 building allotments and incorporation of six Fiscal Year 2016-2017 allotments into Phase 2 of the project.

BACKGROUND:

May 9, 2017 Planning Commission Hearing

The Planning Commission considered the subject project at the May 9, 2017 Planning Commission hearing. Public testimony from the applicant, Mr. Richard Oliver, requested a further amendment to the Development Agreement to have the "Commencement of Construction" deadline for Phase 2 of the project be replaced with a "Final Map Recordation" deadline of June 30, 2018. Pursuant to Measure S (Morgan Hill Municipal Code Section 18.78.160.A) an allotment is considered "exercised" with the recordation of a final map. The definition of "exercised" is a topic that will be discussed by the City Council during an Residential Development Control System (RDCS) workshop to be held on May 17, 2017. The Planning Commission discussed the request and voted to continue this item to the May 23, 2017 Planning Commission meeting to allow for the City Council to hold their RDCS workshop and provide further direction regarding the "exercise" of allotments.

May 17, 2017 City Council RDCS Workshop

The City Council held a workshop to discuss process improvements with the RDCS on May 17, 2017 and provided direction to the team to bring forward an ordinance amendment to Chapter 18.78 of the Morgan Hill Municipal Code that does not require voter approval. The ordinance amendment will address the following:

a. Streamlined Development Agreement process;
b. Administrative approval of time extensions by Planning Commission;
c. Expanded definition of "delay" for exercising allotments;
d. Refinements to the definition of "issuance of grading permit" for exercising of allotments; and,
c. Credit for existing residences.

The question was raised whether allotments granted in accordance with Measure C could use the recordation of a final map provision (exercise of allotment) implemented with Measure S when amending a Development Agreement or when applying for a new Development Agreement. There appeared to be general agreement that Measure C has

been repealed and that the City is implementing Measure S provisions and that the exercise of allotment provision could be used for Measure C projects. The City Council can formalize this policy in the future update to the Measure S ordinance. In the future, if City Council finds that there is a problem with Final Maps being recorded and projects not being developed, they can reconsider the exercise of allotment provision.

ANALYSIS:

The Planning Commission staff report from the May 9, 2017 meeting has been attached which fully analyzes the applicant's request. The following actions are to be considered:

Development Agreement Amendment AAE2017-0013

The applicant explains in the letter dated March 22, 2017, that due to extensive amount of rainfall this year, improvements on the west side of the project site have been stalled preventing completion of the building pads and a six-month extension of time is being requested. Based on finding that the delays have been caused by a severe act of nature outside of the applicant's control, it is recommended the Planning Commission approve Resolution A recommending City Council approval of the amended Development Agreement and approving the exercise of 41 building allotments (Fiscal Year 2016-2017) due to rain delays. As specified in Section 18.78.160.A of the Morgan Hill Municipal Code, an allotment is considered exercised with the recordation of a Final Map, issuance of a grading permit, or the commencement of construction if no Final Map or grading permit is required.

The Planning Commission discussed during the May 9, 2017 hearing that the six building allotments being incorporated into the project should align with the commencement of construction date with Phase 2 of the Butterfield-Dividend project. The six building allotments received a six-month administrative extension, and with a Development Agreement are entitled to a one-year extension upon determination by the Planning Commission. The applicant is requesting that Phase 2 be extended for six months. With the delays of Phase 1, it is likely that the applicant would be unable to move forward with the commencement of construction of Phase 2, as required by the Development Agreement. It is recommended that the development schedule for Phase 2 be extended to be consistent with Section 18.78.160.A of the Morgan Hill Municipal Code (Exercise of Allotments).

Proposed Development Schedule

Exercise of Allotments	**Original Date 1st Extension**	**Approved Date Request**	**Staff Recommendation**
FY 2015-2016 (41 allotments)	~~June 30, 2016~~ June 30, 2017	December 31, 2017	December 31, 2017
FY 2016-2017 (6 allotments)	~~June 30, 2017~~ December 31, 2017	December 31, 2018	December 31, 2018
FY 2017-2018 (37 allotments)	June 30, 2018	December 31, 2018	December 31, 2018

Zoning Amendment AAE2017-0021

It is recommended that the Planning Commission adopt Resolution B approving an amendment to the Precise Development Plan and Planned Development Overlay to incorporate six allotments and site area from an adjacent project (Application MMC-14-09: Butterfield-DPC) for Fiscal Year 2016-2017 into Phase 2 of the Butterfield-Dividend project.

Subdivision Amendment AAE2017-0022

It is recommended that the Planning Commission adopt Resolution C approving an amendment to the Non-Vesting Tentative Subdivision Map for Phase 2 of the Butterfield-Dividend project to incorporate six allotments and the site area from an adjacent project (Application MMC-14-09: Butterfield-DPC) for Fiscal Year 2016-2017. The proposed amendment increases the number of lots in Phase 2 from 37 to 43.

California Environmental Quality Act (CEQA):
In accordance with Section 15162 of the CEQA Guidelines (Subsequent Negative Declarations), there is no substantial evidence, considering the whole record, that the project as revised may have a significant effect on the environment; therefore, no further environmental analysis is required. A Mitigated Negative Declaration was adopted for the project and a Notice of Determination was filed.

LINKS/ATTACHMENTS:
1. DAA Resolution A
2. ZAA Resolution B
3. SDA Resolution C
4. Letter of Justification
5. May 9, 2017- Planning Commission Staff Report

A

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT AAE2017-0013: BUTTERFIELD – DIVIDEND ADDING SIX LOTS TO THE APPROVED 78-UNIT VALENCIA DEVELOPMENT AND EXTENDING THE EXERCISE OF ALLOTMENTS FOR 84 BUILDING ALLOTMENTS (APN 726-26-005 &008)

WHEREAS, the Planning Commission, pursuant to Section 18.78.125 of the Morgan Hill Municipal Code, awarded 41 building allotments for application MC-13-18: Butterfield-MH Butterfield for FY 2015-2016 and awarded 37 building allotments for application MC-15-15: Butterfield-MH Butterfield for FY 2017-2018; and

WHEREAS, the Planning Commission awarded six building allotments for application MMC-14-09: Butterfield-DPC for FY 2016-2017; and

WHEREAS, the property owner for application MMC-14-09: Butterfield-DPC entered into an Assignment Agreement to transfer ownership and the six FY 2016-2017 building allotments to the adjacent Dividend project, increasing the number of units in Phase 2 of the Dividend project from 37 to 43 units; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, on October 14, 2014, the City Council adopted Ordnance No. 2124, N.S. which approved a Development Agreement for application MC-13-18: Butterfield-MH Butterfield; and

WHEREAS, on June 1, 2016, the City Council adopted Ordinance No. 2202, N.S. which approved an amended Development Agreement, adding 37 Fiscal Year 2017-2018 building allotments to the project awarded pursuant to application MC-15-15: Butterfield-MH Butterfield and approved a one-year extension of time to the commencement of construction deadline for 41 Fiscal Year 2015-16 building allotments; and

WHEREAS, pursuant to Section 18.78.170.F of the Morgan Hill Municipal Code, the Planning Commission may approve an extension only when the City or other public agency is responsible for a delay in the issuance of permits or granting approvals required to exercise the allotments, or due to earthquake, flood, fire, or other severe act of nature outside of the applicant's control; and

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

WHEREAS, in the period between October 2016 and April 2017 the City of Morgan Hill received approximately 29.3 inches of rain representing 142 % of the annual rainfall within a six-month period. The excessive rainfall is considered a severe act of nature, and has resulted in saturated soils and flooding which has left Phases 1 and 2 of the Dividend project unable to meet the current commencement of construction deadline.

WHEREAS, the applicant is currently requesting to amend the Development Agreement to allow for an extension of time for six-months due to delays caused by a severe act of nature; and

WHEREAS, the applicant is requesting an amendment to the Development Agreement to incorporate six-building allotments awarded to application MMC-14-09: Butterfield-DPC; and

WHEREAS, the applicant is requesting to replace the required "commencement of construction" requirement with the "exercise of allotment" provisions specified in Section 18.78.160.A of the Morgan Hill Municipal Code.

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

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL THAT:

SECTION 1. The project has been diligent in pursuing all necessary approvals, including recording the final map for Phase 1 and obtaining building and grading permits. The extraordinary amount of rainfall has delayed Phase 1, and consequently delaying Phase 2, necessitating extensions for both Phases. Because Phase 1 utility installation and creation of building pads is delayed, the project has not met the criteria for commencement of construction, as specified in the current Development Schedule. With the Development Agreement amendment and revised Development Schedule, the allotments for Phase 1 would be deemed exercised as a final map has been recorded if the City Council adopts the Development Agreement Amendment to modify "Commencement of Construction" to "Exercise of Allotment", and the Phase 2 allotments would be extended in accordance with the new Development Schedule and could be exercised in accordance with Section 18.78.160.A of the Morgan Hill Municipal Code.

SECTION 2. The six building allotments from application MMC-14-09: Butterfield-DPC shall be incorporated into the project. Based on the findings required in Section 18.78.170 of the Municipal Code the Planning Commission approves a six-month extension for 41, Fiscal Year 2015-2016 building allotments for MC-13-18: Butterfield-MH Butterfield and 37 Fiscal Year 2017-2018 building allotments for application MC-15-15: Butterfield-MH Butterfield, and approves a twelve-month extension for six Fiscal Year 2016-2017 building allotments for application MMC-14-09: Butterfield-DPC to align the timeframe for these six allotments with the existing 37 Phase 2 allotments. It is recommended that the City Council amend the project Development Agreement Development Schedule, including the incorporation of the Exercise of Allotment requirements as defined in Section 18.78.160.A of the Morgan Hill Municipal Code, and Commitments as shown in the Exhibits A and B, respectively.

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

PASSED AND ADOPTED THIS 23rd DAY OF MAY 2017, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

Jenna Luna, DEPUTY CITY CLERK

APPROVED:

Wayne Tanda, CHAIR

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

Exhibit B shall be amended as follows:

EXHIBIT B

DEVELOPMENT SCHEDULE
MC-13-18: Butterfield-Dividend 41, FY 2015-2016
MMC-14-09: Butterfield-DPC, 6 FY 2016-2017
MC 15-15: Butterfield MH Butterfield 37, FY 2017-2018

I. SUBDIVISION AND ZONING APPLICATIONS
Applications Filed: 03-21-2014

II. SITE REVIEW APPLICATION
Application Filed: 12-30-2014

III. FINAL MAP SUBMITTAL
Map, Improvements Agreement and Bonds:
FY 2015-2016 (41 allocations) 03-30-2015

IV. BUILDING PERMIT SUBMITTAL
Submit plans to Building Division for plan check:

FY 2015-2016 (41 units) 12-30-2015

V. BUILDING PERMITS
Obtain Building Permits:
FY 2015-2016 (41 units) 03-30-2017
FY 2016-2017 (6 units) ***09-30-2017***
FY 2017-2018 (37 units) 03-30-2018

VI. ~~COMMENCE CONSTRUCTION~~ EXERCISE OF ALLOTMENT (Section 18.78.160.A)**:**

FY 2015-2016 (41 units)	~~06-30-2016~~	~~06-30-2017~~	**12-31-2017**
FY 2016-2017 (6 units)	~~06-30-2017~~	~~12-31-2017~~	**12-31-2018**
FY 2017-2018 (37 units)		~~06-30-2018~~	**12-31-2018**

Failure to obtain building permits by the dates listed above shall result in the loss of building allotments. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allotments. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.120 of the Municipal Code if development is still desired.

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

Exhibit C Shall be amended as follows:

EXHIBIT C

SPECIFIC RESTRICTIONS AND REQUIREMENTS

The following restrictions and requirements apply to all 41 allotments awarded to RDCS application MC 13-18: Butterfield-Dividend, six allotments awarded to MCC-14-09: Butterfield-DPC and all 37 allotments awarded to MC 15-15: Butterfield-MH Butterfield unless noted below. The following chart describes the applicable reference in the Morgan Hill Municipal Code to the requirement, a description of the commitments specific to the Project, the requirement timing of the implementation and the total estimated costs of improvement or applicable fee commitment. These commitments are IN ADDITION to any mitigation requirements under CEQA, impact fee, in-lieu fees or other requirements under federal or state laws, or the Morgan Hill Municipal Code (See Section 2.03 of the Agreement)

*Estimated costs are estimates and may require augmentation for the completion of improvements. Impact fees are subject to the provisions of Section 2.03 (b) of this Agreement.

Municipal Code Reference	**Description of Requirement**	**Time of Implementation (specify date or phase #)**	**Estimated Cost or Fee Amount***
18.78.210 Schools			
B 1 Developer fees	Payment of district adopted developer fees as provided by the Leroy F. Green School Facilities Act of 1998.	Prior to the issuance of each building permit.	Fee at time of Building Permit
B 4 Off-site pedestrian safety improvements	Project to spend $4950/unit for pedestrian and school pedestrian improvements designated by the MHUSD and approved by the City.	Prior to issuance of Certificate of Occupancy	$4,950 per unit.

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

18.78.220 Open Space			
B 1a Open space buffer	Project provides open space buffer ten feet in excess of code requirements and a minimum 55 feet in width along Butterfield Blvd at Calle Del Rey Court.	Prior to development plan approval	NA
B 2b Common open space area to be maintained by HOA	Project provides private open space which will be maintained by the HOA.	Prior to development plan approval	NA
B 1c Provides convenient access to amenities	The Project will have internal pathways through the common area to provide convenient access to the common area park amenities, per the stated requirements.	Prior to development plan approval	NA
B1f Provides private usable open space	Provides private usable open space areas for 100 percent of the homes	Prior to development plan approval	NA
B 1g Provides public or private common useable open space	Provides public or private common useable open space which may be used for a dual purpose to include underground storm water detention, as determined by the Department of Public Works.	Prior to development plan approval	NA
B 2a Provides a high ratio of total open space area.	Project commits to a building coverage of no more than 28%	Prior to development plan approval	NA
B 4c Transfer Development Credit (TDC)	Applicant commits to purchase double TDCs.	Prior to issuance of Certificate of Occupancy	Applicable TDC fee at time of C of O

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

18.78.240 Public Facilities			
B2a Grids water mains to existing system	The Project will grid the water mains at three points: Butterfield (project north corner), Butterfield (Main project entrance) & at Central entrance road.	Prior to improvement plan approval	NA
B 2b Drainage	Drainage concept must be consistent with City's storm drain system (e.g., the City Storm Drainage Master Plan, local area storm drain system)	Prior to improvement plan approval	NA
B 2c Drainage Design consistent with city storm drain system	Project storm drain lines that are to be maintained by the City will be constructed entirely within the paved area of the street, or in a location acceptable to the Director of Public Works. No storm drains within the project (on-site) will be maintained by the City.	Prior to improvement plan approval	NA
B 2d Design of on-site detention/retention pond	Project will still be required to provide RETENTION as part of the City's storm water management plans for water quality purposes and NOT for flood control.	Prior to improvement plan approval	NA
B 2f Off site public Improvements	The project will provide public improvements at cost of $4400 per unit. Public improvements shall be determined and approved by Public Works.	Prior to issuance of Certificate of Occupancy	$4400 per unit
18.78.250 Parks and Paths			
B 1 Park in-lieu	The project shall pay an in-lieu fee consistent with the requirements contained in Chapter 17.28 of the Municipal Code.	Prior to Certificate of Occupancy	Fee at time of Certificate of Occupancy

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

B 2 Amenities	Project shall provide the following separate amenities: Two shade trellis areas, three separate barbeque/picnic areas, swimming pool, spa, community building and tot lot and passive recreational area adjacent to Calle Del Rey Court, sufficient to qualify for four points.	Prior to development plan approval	Fee at time of Certificate of Occupancy on last 20 units
B 3 Bicycle Lanes and Pathways	Provides Class I bicycle lanes and pathways along the project frontage and the project provides necessary street improvements and striping for Class II bike lanes. The project must provide at least one quarter mile of Class II bike lane improvements for each 10 dwelling units within the project.	Prior to development plan approval	NA
B 6 Double Park in-lieu	In addition to standard park fees, project shall pay the lesser of either double the in-lieu park fees or $1,100 per unit. **MMC-14-09: Butterfield – DPC FY 2016-2017:** In addition to standard park fees, project shall pay the lesser of either six times the in-lieu park fees or $3,300 per units for six units.	Prior to issuance of Certificate of Occupancy	NA
B 7 Park space	The project shall provide ~~3.61~~ 4.52 acres of land dedicated to private parks.	Prior to recordation of the final map	NA
18.78.260 Housing Needs			
B3 BMR units	Project shall provide 6.24 BMR's, 3 low, 3 median income and .24 of the housing in-lieu fee. Project shall provide a total of 8% BMR units: 4% Low Income (3 units); and 4% Median Income (3 units). Any fraction of .5 or greater is deemed a requirement for one additional below market rate unit. Any fraction .4 or less shall be paid as a fraction of the housing in-lieu fee prior to the occupancy of the final unit. Low Income is defined as 73% Area Median Income (AMI) and Median Income is defined as 100% AMI (as determined and updated annually by the State HCD). Individual unit prices are dependent on unit sizes/bedroom counts and subject to the prices shown in the City of Morgan Hill's "New BMR Sales Pricing Index" table.	Prior to issuance of Certificate of Occupancy	1 per every 10 Certificate of Occupancies

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

	The Project shall provide at least 6 units for participation in a Below Market Rate (BMR) for sale program approved by the Community Development Department. The BMR unit(s) shall be approved by the City of Morgan Hill Planning Commission and Site and Architectural Review process. BMRs are also subject to the requirements listed under "Additional Requirements" and as referenced per the Affordable Housing Agreement (AHA). Additional Requirements: (i) Below Market Rate (BMR) purchasers shall be treated in the same manner as purchasers of non-BMR units. Developer, including Developer's company, employees, and/or agents) agrees to cooperate with the Below Market Rate (BMR) Program Administrator and follow the guidelines and procedures as outlined in the Affordable Housing Agreement (AHA). (i) Project will provide the buyer(s) of the BMR unit(s) the same option to upgrade the materials in the BMR home as a market rate buyers would in the market rate homes. (iii) Project will provide the same level of customer service to the BMR buyer as the market rate buyer. (iv) The Below Market Rate (BMR) Program Guidelines are hereby incorporated herein in full by this reference. (v) All BMRs will be processed using the guidelines, requirements, and pricing in effect at the time they are released for "sale." (vi) Exterior trim entry door hardware, and finish to the same standard as the Market Rate. (vii) Minimum standards for equipment, fixtures, appliances and finishes have		

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

	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. Minimum Interior standard finishes will be as follows: • All closets shall have doors • Interior doors to be raised panel type or same as market rate • Door hardware to be brass finish or the equivalent • Appliances shall be major brand name • Microwave with an exhaust vent shall be installed over the range. • Kitchen counters shall be white ceramic tile • Kitchen cabinets shall be stained wood with white melamine interiors • Units will be roughed in for AC including electrical and line set. • Basic alarm system to secure all accessible openings to the home • Carpet in bedrooms, hallways, family rooms • Linoleum or tile in entry, bathrooms kitchens • Laminate flooring may be substituted for carpet or linoleum • Electric garage door opener **MMC-14-09: Butterfield–DPC FY 2016-2017:** Project will pay double the standard housing fee computed at 8% of the of the six units added to the overall project. [8% of the six units times the standard housing fee amount equals the total fee amount]		

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

18.78.270 Housing Types			
B1a Diversity of types	6, Single-family detached homes in the project area zoned R-1 4,500. 18 Single-family detached, 18 Triplex and 36 Single-family attached homes within the project area zoned R-2 3,000.	Prior to development plan approval	NA
B 3a Variation of sizes	There are ix different floor plans, the smallest being 1488 sf and the largest 2685 sf. Four of the floor plans are 200 sf larger than the next smaller plan	Prior to development plan approval	NA
B 1a R-1 4,500 units	R1-4,500 zone units shall be four bedroom units.	Prior to development plan approval	NA
18.78.280 Quality of Construction			
B1 Over and above commitments made in the Natural and Environmental category, the proposed development will install the following:	**MC-13-18: Butterfield-Dividend 41, FY 2015-2016** • Full exterior OSB/Plywood wrap with window door flashing. • 220 Volt electric car charging station, inside of the garage. • All plumbing waste lines from 2nd story are installed with approved noise dampening system. • Recycle center built in to cabinet layout with pullouts for bins. • Noncombustible siding and roofing materials except for window, fascia and door trim on all homes. • R-13 sound attenuated insulation in all bathroom interior walls • Energy star rated fresh air exhausts system in home **MMC-14-09: Butterfield-DPC, six units, FY 2016-2017 and MC 15-15: Butterfield MH Butterfield 37, FY 2017-2018** • Foundations: 20% reduction of cement in the concrete mix design by	Incorporate in to construction plans prior to the issuance of a building permit.	NA

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

	use of fly ash, slag, silica fume or rice hull ash. • Installation of 90% high efficiency fan forced heating. • Installation of one dedicated ¾ inch electrical raceway for a future circuit to accommodate two 220 Volt electric car charging stations inside the garage. • Zoned heating and air condition for all one and two-story homes. • The proposed development will provide all the following: 1. Listed sound attenuation materials in walls that adjoin a bathroom and/or bedroom walls; 2. Installation of high efficiency energy star water heater with energy factor of 0.70: 3. Installation of ultra-high efficiency or dual flush toilet; and 4. Installation of rain sensor monitor on irrigation system.		
18.78.290 Lot Layout and Orientation			
B 1a Avoids deep or narrow lots	Project avoids excessively deep or narrow lots AND provides side yards at least 20% in excess of the minimum setback.	Prior to development plan approval	NA
B1h Repeat factor	Project commits to a repeat factor of 3.5 or less	Prior to development plan approval	NA
B 1d Minimize sound walls	There are increased set-backs along Butterfield to allow opens space areas along the larger open space areas with wrought iron fencing. All homes that side toward the railroad tracks will have sound board and sound reducing windows. A/C units where possible will be in rear of lots	Prior to development plan approval	NA
B 1f Transition of lot sizes	Project commits to provide appropriate transition to adjoining residential development	Prior to development plan approval	NA
B 2a Visibility of entrances	A minimum of 75 percent of the units have entrances that are visible from public streets.	Prior to development	NA

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

		plan approval	
B 3a & b Setback variation	A minimum five-foot front and rear setback variation is provided between adjoining units	Prior to development plan approval	NA
B 3c Variation of lot widths	The proposed project provides at least a four-foot variation in standard lot widths (excluding cul-de-sac lots) and each lot width represents at least 10 percent of the total lots. For purposes of making the above determination, there must be at least three different standard lot widths and at least a four-foot difference in the width of each standard lot.	Prior to development plan approval	NA
B 3d Garage Alternative	Project will provide a garage door that is setback a minimum of three feet beyond the front building footprint and includes architectural treatment of the face of garage (e.g. trellis, balcony, archway, 2ft recess of door, etc. (up to two points) on all single-family detached homes within the development.	Prior to development plan approval	NA
18.78.300 Circulation Efficiency			
B1a Future street extension	Project will stub connection to Parcel 2 that is not a part of the current project. The project provides an EVA or temporary turn-around on Parcel 2 for fire and police safety.		
B 4 Provides for dedication and improvement of extensions to existing streets	The project agrees to spend $2,200/unit toward the construction of roadway improvements near or adjacent to the proposed development. Applicant agrees to construct out of tract public improvements at a cost of $2,200 per unit. This commitment is in addition, and not duplicative, to the similar commitment in the Public Facilities Section.	Prior to issuance of Certificate of Occupancy	NA

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

B 1f Minimum 20 ft. clear view back-out distance	Provides a minimum 20-foot clear view back-out distance between enclosed garage space and the adjacent public street.	Prior to development plan approval	NA
B 3a Convert existing City street lights to LED	Converts existing city street lights to energy efficient LED lights at a ratio of one street light conversion per dwelling unit. This commitment shall apply to the conversion of existing street lights on or adjacent to the project frontage, or in an earlier phase of the current project.	Prior to acceptance of the public improvements.	NA
18.78.310 Safety and Security			
B 1b Provide first aid kit	Project commits to providing a first aid kit with poison control document. Kit to be installed in kitchen area of each unit	Prior to issuance of Certificate of Occupancy	NA
B 1d Provide outdoor lighting	Project commits to providing outdoor lighting that meets all police department specifications	Prior to development plan approval	NA
B 1f Illuminated address numbers and curb numbers	Project commits to installation of illuminated address numbers on each unit and to paint reflective curb numbers at each unit.	Prior to development plan approval	NA
B 1g Other intrusion protection device or approved construction technique	Project will be meeting with MHPD to obtain approval on an additional intrusion protection device.	Prior to development plan approval	NA

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

B 1h Bike storage	All units provided with enclosed garages for bike protection and storage.	Prior to issuance of Certificate of Occupancy	NA
B 1h All large common areas and parks will be provided with on-site (or modified electrolier) lighting to a minimum 1.5 foot candles.	Project commits to providing on-site lighting to a minimum of 1.5 foot candles.	Prior to development plan approval	NA
B 6 Neighborhood emergency preparedness program through HOA	Project commits to providing a Neighborhood Emergency Preparedness program to be administered by the Homeowners Association	Prior to the issuance of first Certificate of Occupancy	NA
Neighborhood "Watch Program" in CC&R's	Project commits to including in Covenants, Conditions and Restrictions provisions that will direct a Board representative to the police department to enact a Neighborhood Watch Program to be established as part of the first phase of the development	Prior to the issuance of first Certificate of Occupancy	NA
18.78.320 Landscaping, Screening and Color			
B 1c Varied front yard	Varied front yard landscaping will be installed by the developer.	Prior to development	NA

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

landscaping		plan approval	
B 2d Adheres to Street Tree Master Plan and preserves existing trees	The developer will plant street trees that will conform to the street tree master plan. There are at least three larger oak trees on the project that will be able to be saved within the larger central common area and several along the RR right of way. An arborist's report will be provided to verify the health of the trees that can be saved.	Prior to development plan approval	NA
B 2b Drought tolerant grasses	Drought tolerant hybrid tall fescue grasses will be used for lawn areas. The lawn areas will not exceed 25% of the landscape area. This is exclusive of park/open space landscape area.	Prior to development plan approval	NA
B 1b Automatic irrigation systems	Automatic irrigation system will utilize separate valve and circuits; Minimum of three separate valves required. Water conserving irrigation system will also be used.	Prior to development plan approval	NA
B 2b Use of water conserving plants	All other planting in non-turf areas shall be composed of low to moderate water use plants identified in Water Use Classification of Landscape Species Guide or East Bay Municipal District's Plants and Landscape for Summer-Dry Climates of the San Francisco Bay Region or other species, including native plants, that are well adapted to the climate of the region and require minimum water once established.	Prior to development plan approval	NA
B 2c Separate water source for irrigation of common area	Project will provide a well to provide irrigation water for the common area and front yards that are maintained by the HOA	Prior to development plan approval	NA
B 3 Visible landscaping to public	Landscaping is installed by the developer on all areas visible from public and private rights-of-way	Prior to development plan approval	NA
B 4 Site drainage reduction.	Project site drainage will be reduced by first-flush underground retention	Prior to approval of the project	NA

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

	system, with testing results demonstrating sufficient percolation which is greater than 0.6 inches per minute. The desired reduction will be accomplished with soil amendment or other means verified by the Project Soil Consultant.	improvement plans	
18.78.330 Natural and Environmental			
B 1 Minimize grading	Foundation types will be designed to minimize grading of the site and road alignment follows and maintains existing ground elevation to the greatest extent possible. Minimal grading is considered a fill or excavation of less than two feet in depth (four feet is acceptable for detention ponds and three feet is acceptable as required fill for flood protection), and restricts the amount of runoff caused by impervious surfaces and the covering of land area suitable for percolation or bio-swales where applicable.	Prior to development plan approval	NA
B 2 Alt. energy features	**MC-13-18: Butterfield-Dividend 41, FY 2015-2016** Install solar photovoltaic panels to offset 60% of anticipated electrical energy demand of residential unit Pre-plumb for solar water heating. Twenty-one (21) additional Build It Green (BIG) Points beyond a 70-point minimum **MC 15-15: Butterfield MH Butterfield 37, FY 2017-2018** Install solar photovoltaic panels to offset 50% of anticipated electrical energy demand of residential unit Building performance exceeds Title 24 by 30% Any community pool utilizing solar water heating.	Prior to issuance of building permit	NA
18.78.335 Livable Communities			

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

B 2 Bus stop installation	Project commits to the installation of bus shelters, benches, reinforced street sections or bus pullout areas as reviewed and approved by the Valley Transportation Agency (VTA). The VTA must accept the bus stop improvements.	Must be included in project improvement plans	
B 6b Roof lines	Project will use at least two different roof lines and two different pitches	Prior to development plan approval	NA
B 6c Profiles and massing	Project will retain architecture, profiles, and massing that conforms to the existing surrounding neighborhoods.	Prior to development plan approval	NA
B 6 a & d Relief and details	Project provides a consistent level of architectural relief and detailing on all four building elevations and conforms to other criteria, such as porches/balconies, standard trim, and base colors represent no more than 15% of the project. Where two-story rear and/or side-yard building elevations occur, architectural relief shall include some third dimensional design element such as bay windows, balconies, covered porches, decorative trellis, etc.	Prior to development plan approval	NA
B 7 Provides privacy for residents	Uses design and layout techniques that give individuals maximum privacy within and outside the homes. Such techniques include the off set of windows between units, alternating outdoor patio areas, and interior atrium type patios.	Prior to development plan approval	NA

Attachment: DAA Resolution A [Revision 2] (1213 : Development Amendment Butterfield - Dividend (2))

B

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF AN AMENDMENT TO THE R-1 (4,500) (PD) AND R-2 (3000) (PD) PLANNED DEVELOPMENT OVERLAY DISTRICT AND PRECISE DEVELOPMENT PLAN FOR AN 84-UNIT RESIDENTIAL DEVELOPMENT ON A 13.72-ACRE SITE LOCATED ON THE NORTHWEST AND NORTHEAST CORNERS OF THE INTERSECTION OF BUTTERFIELD BOULEVARD AND EAST CENTRAL AVENUE. (APN 726-26-005 &008)

WHEREAS, such request was considered by the Planning Commission at its regular meetings May 9, 2017 and May 23, 2017, at which time the Planning Commission recommended approval of zoning amendment application, AAE2017-0021 (ZAA-14-04): Butterfield-Dividend; and

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

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

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. The Planning Commission of the City of Morgan Hill hereby finds that, on the basis of the whole record before it (including the addendum to the initial study), there is no substantial evidence that the project as currently proposed will have a significant effect on the environment beyond what was anticipated in the Mitigated Negative Declaration adopted by the City Council on August 28, 2013, and this finding reflects the Planning Commission's independent judgment and analysis. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 4 The Planning Commission finds that the amended Planned Development (PD) Overlay District is consistent with the criteria specified in Chapter 18.30 of the Morgan Hill Municipal Code.

SECTION 5. The Planning Commission hereby recommends approval of an amendment to the Precise Development Plan adopted under Ordinance No. 2123 on October 15, 2014, as contained in that certain series of documents date stamped August 1, 2014 and April 27, 2017 on file at the Development Services Department, entitled

Attachment: ZAA Resolution B [Revision 1] (1213 : Development Amendment Butterfield - Dividend (2))

"Valencia" prepared by MH Engineering. The amendment adds six lots and expands the project area at the northeasterly corner of the site and expands the total project area to 13.72 acres. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses of the project.

SECTION 6. Approval of the amended PD overlay and Precise Development Plan shall allow exceptions to the base development standards of the base R-2 3,000 zoning district and the base R-1 4,500 zoning district as applied in Ordinance 2085, including reduced side yard setbacks, and reduced lot areas and dimensions, as identified on the precise development plans dated September 14, 2014 (Phase 1) and April 27, 2017 (Phase 2).

SECTION 7. As part of the Design Permit approval process, emphasis shall be placed on architectural and landscape treatments that will minimize the appearance of the garage doors. Also as part of the Design Review approval process, adjustments shall be made to the precise development plan to minimize (within 25% of base standard and frequency of occurrence) the variations from the base development standards for the floor area ratios for the single-family detached homes and adjustment to lot sizes and lot width.

SECTION 8. For the single-family detached units within the PD any future building additions shall comply with the R-1 4,500 development standards of the Single-Family High zoning district. For the attached units within the PD future building additions shall comply with the R-2 3,000 development standard of the Multi-Family Low zoning district.

PASSED AND ADOPTED THIS 23rd DAY OF MAY 2017, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

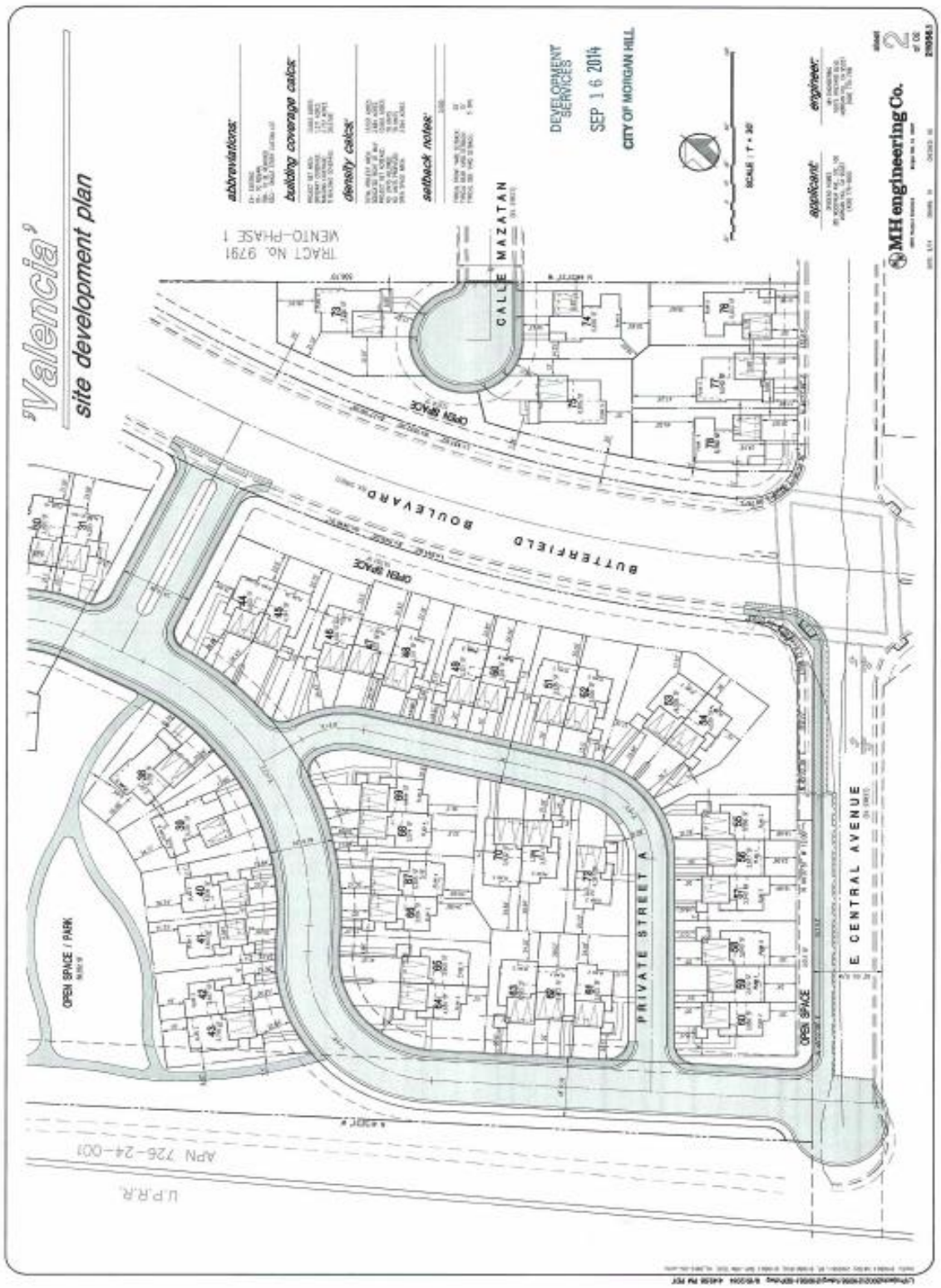
ABSENT: COMMISSIONERS:

ATTEST: **APPROVED:**

JENNA LUNA, Deputy City Clerk **WAYNE TANDA, Chair**

R:\PLANNING\WP51\Zoning Amendment\2014\ZA-14-04 Butterfield Dividend\AAE2017-0021\ZAA1404.r1p.doc

Attachment: ZAA Resolution B [Revision 1] (1213 : Development Amendment Butterfield - Dividend (2))



Attachment: ZAA Resolution B [Revision 1] (1213 : Development Amendment Butterfield - Dividend (2))

C

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING AN AMENDED VESTING 43-LOT RESIDENTIAL SUBDIVISION ON A 13.72-ACRE SITE LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BUTTERFIELD BLVD. AND EAST CENTRAL AVE. (APN 726-26-005 & 008)

WHEREAS, such request was considered by the Planning Commission at its regular meeting of May 9, 2017 and May 23, 2017, at which time the Planning Commission approved subdivision application, SDA-14-04: Butterfield-MH Butterfield (Dividend); and

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

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

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The approval of this subdivision is contingent upon the City Council approval of a Planned Development overlay zoning amendment and Precise Development Plan as contained in Zoning Amendment application, AAE2017-0021 (ZAA-14-04B): Butterfield-Dividend.

SECTION 3. The Planning Commission of the City of Morgan Hill hereby finds that, on the basis of the whole record before it (including the addendum to the 2013 initial study completed for GPA 11-03: Butterfield-Butterfield Inv.), that there is no substantial evidence that the project as currently proposed will have a significant effect on the environment beyond what was anticipated in the Mitigated Negative Declaration adopted by the City Council in on August 28, 2013 reflects the Planning Commission's independent judgment and analysis. The custodian of the documents or other material which constitute the record shall be the Community Development Department. The mitigation measures are identified in the set of standard conditions as contained in Exhibit A.

SECTION 4. The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 5. The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as Exhibit A, and by this reference incorporated herein.

Attachment: SDA Resolution C (1213 : Development Amendment Butterfield - Dividend (2))

SECTION 6. As part of the Design Review approval process adjustments shall be made to the precise development plan and subdivision map to minimize (within 25% of base standard and frequency of occurrence) the variations from the base development standards for the floor area ratios for the single-family detached homes and adjustment to lot sizes and lot width.

PASSED AND ADOPTED THIS 23rd DAY OF MAY 2017, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST: **APPROVED:**

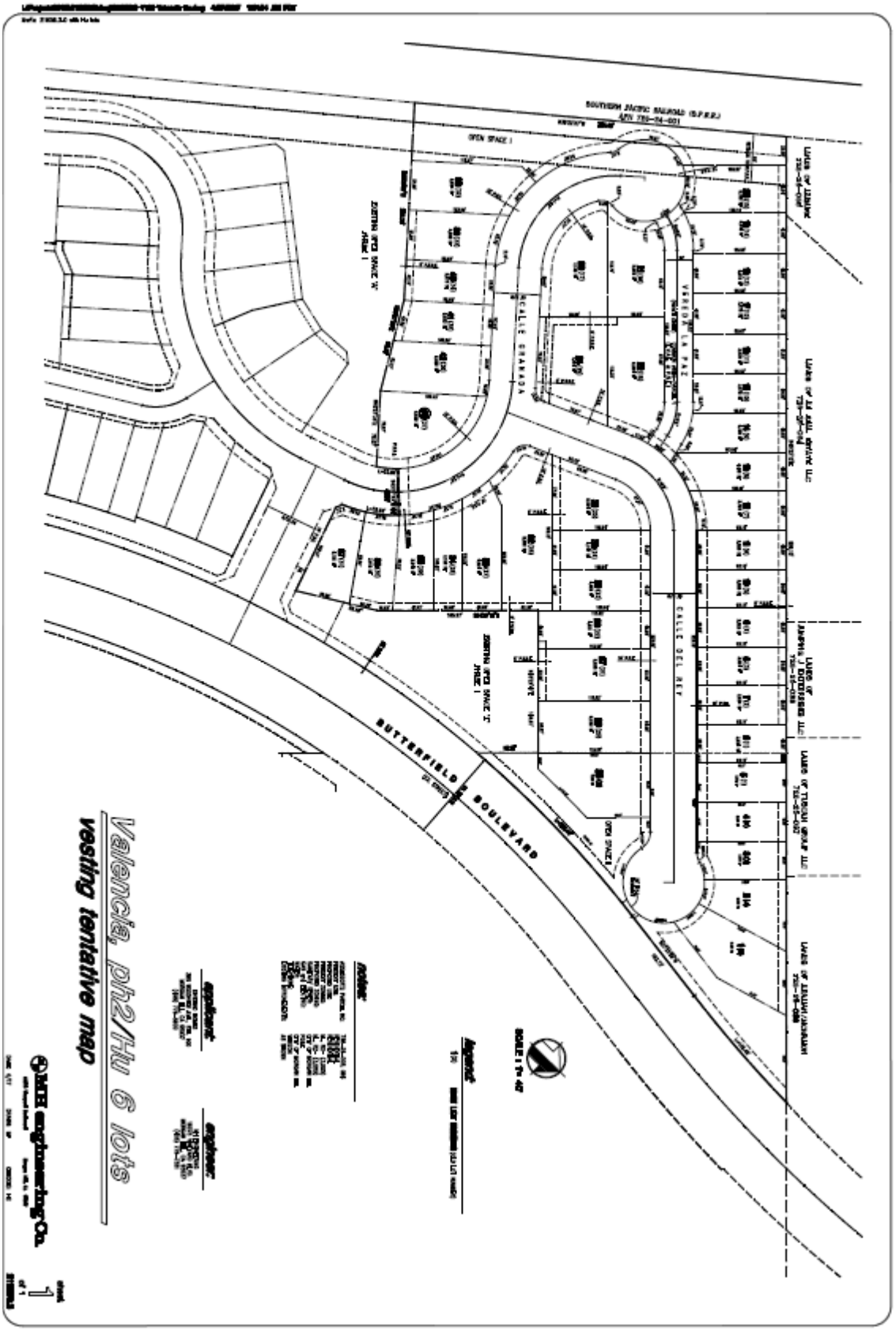
JENNA LUNA, Deputy City Clerk **WAYNE TANDA, Chair**

A F F I D A V I T

We, _____, applicants, hereby agree to accept and abide by the terms and conditions specified in this resolution.

By: _____ Date: _____

Attachment: SDA Resolution C (1213 : Development Amendment Butterfield - Dividend (2))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vesting tentative map
BUTTERFIELD BOULEVARD
SOUTHERN PACIFIC RAILROAD (S.P.R.R.)
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EXHIBIT A

CONDITIONS OF APPROVAL

1. All conditions as contained in Exhibit A to Resolution No. 14-30, adopted by the Planning Commission on September 23, 2014 and including the following added conditions:

LAND DEVELOPMENT/ENGINEERING DIVISION

The following conditions shall apply to the project/application.

1. PRIOR TO SUBMITTING ANY IMPROVEMENTS PLANS, developer and project Engineer shall meet with Public Works Engineering Division to go over Measure C commitments to be addressed. Contact Scott Creer or Charlie Ha (408-778-6480) to schedule a pre-design meeting.
2. Project improvement plans shall address or satisfy all Measure C commitments prior to issuance of any development permit.
3. All retention/detention ponds shall be privately maintained by the HOA.
4. Project will be responsible for reimbursement fee to the City for the special RDA Butterfield Boulevard right-of-way for the project frontage along Butterfield Boulevard.
5. Project will be responsible for the reimbursement fee of public improvements (36' right-of-way) along the frontage on Butterfield Boulevard.
6. Obtain an encroachment permit from the Public Works Department prior to commencement of any work in the City's right-of-way or in connection with the City's utility system.
7. Public Works impact fees are required for this project and must be paid prior to occupancy of each unit.

GENERAL

1. 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)**

2. 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 Public Works Department. **(MHMC 17.20.200 A; 17.20.290; 17.24.010)**

3. The applicant shall submit as part of the improvement drawings 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 Director of Public Works prior to submittal of Final Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**

4. Obtain necessary encroachment permits from:
   ☐ City of Morgan Hill
   and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**

Attachment: SDA Resolution C (1213 : Development Amendment Butterfield - Dividend (2))

5. Improvement plans are to show water lines, sanitary Sewer, storm drain system, pavement widths, curve radius, and existing utilities.

6. Enter into a
   ☐ Subdivision Improvement Agreement (SIA)
   with the City of Morgan Hill to cover required improvements. **(MHMC 12.02.150; 17.32.010 B; 17.32.160)**

7. 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 map, or prior to issuance of building permit where no map is involved. **(MHMC 17.20.350 H)**

8. Pursuant to City Ordinance 982, the subject property will have reimbursement obligation to the City for lands acquired for street purposes and streets improved should those lands/street improvements abut or be included within subject property. **(MHMC 12.02.120 B)**

9. **IMPACT 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 Public Works Department 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)**

STREET IMPROVEMENTS

10. 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 Director of Public Works. All street improvements shall be constructed to the satisfaction of the Director of Public Works. 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)**

11. 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)**

12. 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)**

SANITARY SEWER SYSTEM

13. 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,

Attachment: SDA Resolution C (1213 : Development Amendment Butterfield - Dividend (2))

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)**

14. 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)**

STORM DRAIN SYSTEM

15. 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 Director of Public Works. 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)**

16. The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Site Review plans. All storm drain improvements shall be constructed to the satisfaction of the Director of Public Works. **(MHMC 17.32.020 A & B)**

17. 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 a 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)**

18. Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the Director of Public Works.
    a. Storm drain calculations to determine detention/retention pond sizing and operations.
    b. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
    c. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.

    (CMH Design Standards and Standard Details for Construction)

19. 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-

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subscription.aspx and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number to will be issued to the construction site after the SWRCB receives and verifies the submitted ONLINE NOI information. The WIDI 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).**

20. NPDES GENERAL PERMIT SITE SWPPP INSPECTIONS AND COMPIANCE:
    a. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP).**
    b. SWPPP Inspections shall occur weekly during the rainy season (September 15th thru May 1st).
    c. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
    d. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.
    e. Per each of the inspection conditions 2, 3, or 4, the NPDES SWPPP Inspector shall certify in writing to the Building and Public Works Department if the site is in compliance or non-compliance with the NPDES General Permit for Stormwater, site SWPPP Manual, and Water Pollution Control Drawings (per the CMH-SWPPP Inspection Check List to be provided by Public Works). QSD/QSP SWPPP Inspectors shall forward onsite and offsite information/certification to the Building (on-site private property issues) and Public Works (public right-of-way issues) inspectors respectively.
    f. Prior to rain events, BMPs not in compliance will need to be corrected immediately.
    g. Illicit discharges per the NPDES General Permit, non-compliance of tracking control, and inlet protection within the public right of way shall be address immediately.
    h. Other non-compliance issues need to be addressed within a 24-hour period.
    i. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow up inspection.

WATER SYSTEM

21. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the Director of Public Works. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the Director of Public Works and dedicated to the City. **(MHMC 17.32.020 A & D; CMH Design Standards and Standard Details for Construction; CMH Water System Master Plan)**

22. 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.

23. Installation of water line extension on the proposed public streets and/or private streets. **(MHMC 17.32.020 A & D; CMH Water System Master Plan)**

24. Provide separate water services and meters for each lot. These are to be installed by developer. **(MHMC 17.32.020 D)**

OTHER CONDITIONS

25. The owner shall dedicate all necessary utility easements. **(MHMC 12.02.080 D; 17.28.010 A)**

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26. 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 Director of Public Works. **(MHMC 17.32.020 E.1)**

27. The final map on all major subdivision (5 or more lots) shall be approved by the City Council prior to issuance of a grading permit. For minor subdivision (4 lots or less), the final map shall be signed by the City Engineer and the Planning Commission Secretary prior to issuance of a grading permit. **(MHMC 17.20.390; 17.24.210)**

28. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Homeowner's Association.

29. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**

30. Prior to the approval of any Building Permit for grading activity, the developer shall schedule a preconstruction meeting with the Public Works Inspection Division with the following project team members:

    a. Civil Engineer of record.

    b. Geotechnical Engineer of record.

    c. Third Party QSD/QSP SWPPP Inspector.

    d. General Contractor.

    e. Sub-Contractors.

NPDES STORMWATER POST CONSTRUCTION DEVELOPMENT STANDARDS

1. State Water Resources Control Board 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/stormwater/docs/lid/lid_hydromod_charette_index.shtml). A copy of the guidance manual can be obtained through the Department of Public Works internet site.

   a. Project shall provide Stormwater Control Plan Checklist and applicable calculations per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements.
   b. Project shall meet the applicable requirements of the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements:
      i. Performance Requirement 1: Site Design and Runoff Reduction
      ii. Performance Requirement 2: Water Quality Treatment
      iii. Performance Requirement 3: Runoff Retention
      iv. Performance Requirement 4: Peak Management

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c. **Submit/re-submit site review plans (SR) to include requirements of item "a" and "b" above.**

2. Design Standards Applicable to All Categories.

a. **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.

b. **Conserve Natural Areas** - If applicable, the following items are required and must be implemented in the site layout during the subdivision design and approval process, consistent with applicable General Plan and Local Area Plan policies:
   i. Concentrate or cluster Development on portions of a site while leaving the remaining land in a natural undisturbed condition.
   ii. Limit clearing and grading of native vegetation at a site to the minimum amount needed to build lots, allow access, and provide fire protection.
   iii. Maximize trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.
   iv. Promote natural vegetation by using parking lot islands and other landscaped areas.
   v. Preserve riparian areas and wetlands.

c. **Minimize Storm Water Pollutants of Concern** - Storm water runoff from a site has the potential to contribute oil and grease, suspended solids, metals, gasoline, pesticides, and pathogens to the storm water conveyance system. The development must be designed so as to minimize, to the maximum extent practicable, the introduction of pollutants of concern that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the storm water conveyance system as approved by the building official. Pollutants of concern consist of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water, elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bio-accumulate in organisms therein, or the detectable inputs of the pollutant are at concentrations or loads considered potentially toxic to humans and/or flora and fauna.

   In meeting this specific requirement, "minimization of the pollutants of concern" will require the incorporation of a BMP or combination of BMPs best suited to maximize the reduction of pollutant loadings in that runoff to the Maximum Extent Practicable. Those BMPs best suited for that purpose are those listed in:
   i. *California Stormwater Quality Association (CASQA) Handbook: BMPs for New Development and Redevelopment*
   ii. *Bay Area Stormwater Management Agencies Association (BASMAA) Design Guidance Manual for Stormwater Quality Protection: Start at the Source 1999*

   Other available sources of BMPs
   iii. *California Storm Water Best Management Practices Handbooks*
   iv. *Caltrans Storm Water Quality Handbook: Planning and Design Staff Guide*

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d. **Provide Storm Drain System Stenciling and Signage** - Storm drain stencils are highly visible source controls that are typically placed directly adjacent to storm drain inlets. The stencil contains a brief statement that prohibits the dumping of improper materials into the storm water conveyance system. Graphical icons, either illustrating anti-dumping symbols or images of receiving water fauna, are effective supplements to the anti-dumping message. 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.

e. **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:
    i. Volumetric Treatment Control BMP
        1. 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
        2. 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
        3. 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.
    ii. Flow Based Treatment Control BMP
        1. 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
        2. 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.

f. **Stormwater Runoff Management Plan (SWRMP) required -** 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.
    i. 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.
    ii. The chief engineer or designee may require a developer to 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.
    iii. Each certifying civil engineer shall establish to the city's satisfaction that such person has been trained on the design of stormwater quality best management practices not more than three years prior to the certification signature date.

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iv. Qualifying training shall be conducted by an organization with stormwater quality management expertise, such as a university, the Bay Area Stormwater Management Agencies Association, the American Society of Civil Engineers, the American Public Works Association, or the California Water Environment Association.

g. **Stormwater BMP operation, maintenance, and replacement responsibility**
   i. 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.
   ii. Any repairs or restoration/replacement and maintenance shall be in accordance with city-approved plans.
   iii. 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.

h. **Stormwater BMP operation and Maintenance Agreement (SWBOMA) required -** Improper maintenance is one of the most common reasons why water quality controls will not function as designed or which may cause the system to fail entirely. It is important to consider who will be responsible for maintenance of a permanent BMP, and what equipment is required to perform the maintenance properly.
   i. 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 treatment BMPs (City standard STORMWATER BMP OPERATION AND MAINTENANCE AGREEMENT to be provided by Public Works Engineering).
   ii. The stormwater BMP operation and maintenance agreement shall require that the BMPs not be modified and BMP maintenance activities not alter the designed function of the facility from its original design unless approved by the city prior to the commencement of the proposed modification or maintenance activity.
   iii. The stormwater BMP operation and maintenance agreement shall provide that in the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the city shall have the authority to perform maintenance and/or repair work and to recover the costs from the owner.

i. **Stormwater BMP inspection responsibility**
   i. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a **Register Civil Engineer (RCE)**.
   ii. Unless otherwise required by the chief 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:
      1. Site address;
      2. Date and time of inspection;
      3. Name of the person conducting the inspection;
      4. List of stormwater facilities inspected;

Attachment: SDA Resolution C (1213 : Development Amendment Butterfield - Dividend (2))

5. Condition of each stormwater facility inspected;
6. Description of any needed maintenance or repairs; and
7. As applicable, the need for site reinspection.

iii. Upon completion of each inspection, an inspection report shall be submitted to Public Works Engineering.

j. **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 chief engineer or designee with records of all inspections, maintenance and repairs.

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

Attachment: SDA Resolution C (1213 : Development Amendment Butterfield - Dividend (2))

Butterfield Investors LLC
c/o Dividend Homes, Inc.
385 Woodview Ave. Suite 100
Morgan Hill, CA 95037
408-779-5900
roliver@dividendhomes.com

DEVELOPMENT SERVICES
MAR 2 2 2017
CITY OF MORGAN HILL

March 22, 2017

Terry Linder
Planning Department
City of Morgan Hill
17571 Peak Ave.
Morgan Hill, CA 95037

Re: Development Agreement Amendment including Extension of Time
Butterfield-Dividend (Valencia Phase 1)) M13-18/DA-14-03
Butterfield-Dividend (Valencia Phase 2) MC-15-15
Monterey-Butterfield/DPC MMC 14-09/SD-1604 ("6 Hu Lots")

Terry:

Attached is our formal application for a Development Agreement Amendment (with four distinct requests), including an extension of time to meet the "commencement of construction" requirement of the Development Agreement and including a request that the 6 Hu lots project be merged into the Valencia Phase 2 Project, as requested by the City. The result would combine all the prior processing and applications of the Hu 6 Lots which would become part of Valencia Phase 2.. The Improvement Drawings, Vesting Tentative Map and the Final Map for Valencia Phase 2 are presently modified to include the Hu 6 Lots. The Development Agreement for Valencia would need to be amended to include the Hu 6 Lots and all the appropriate requirements for the Hu 6 Lots would be included therein and in the Development Agreement Amendment. (1) Request is therefor made for the Development Agreement to be amended to provide for this merger of the Hu 6 Lots into Phase 2 of Valencia.

The final map for Valencia Phase I was recorded on October 19, 2016. School Fees for the 41 lots of Phase 1 have been paid. Building permits for the six lots on the east side of Butterfield have been issues and the building permit for the Rec Building on the East side of Butterfield has been issued. Building permits for the remaining homes on the West side of Butterfield are ready to issue, pending completion of the pads. There was extensive tree removal and site demolition that commenced in early November. In December grading of the site commenced, but was stopped by the rains the began in December. Since that time, the site has been under water and in mud and grading operations have not been able to start again. It is hoped, pending future rains, that the grading will commence this week or next week. Phase 1 includes grading and utilities for remaining 35 lots on the west side of Butterfield and the major SWPPP retention basin. That work has been totally stopped since mid-December due to the rains.

Attachment: Letter of Justification (1213 : Development Amendment Butterfield - Dividend (2))

There are six lots (part of Valencia Phase 1) on the east side of Butterfield that required very little grading and that Project already has been able to construct the pads and the utilities and slab foundations have been poured. On the west side of Butterfield, no progress has been made since mid-December due to the rain, which not as yet ceased. (2) Request a six-month extension of the commencement of construction date in the Development Agreement due to the rain delay is needed and requested for Phase 1 of Valencia.

The Final Map for Phase 2 of Valencia has not been filed, but will be filed shortly (after this requested amendment is approved to include the Hu 6 Lots). Because this is a large project, it is not possible or practical to commence construction on Phase 2 until at least all of the Improvements of Phase 1 (which include a large Recreation Building and pool) are completed and at least half of the homes have been sold. Because prior delays and extensions (caused by City time constrains and Union Pacific Railroad caused delays) and now rain delays, it will be impossible for Phase 2 to meet the current "Commencement of Construction" schedule (of 6/30/18) set forth in the Development Agreement.

Because a final map has not been recorded for Phase 2 and this project falls into the transition period between the ending of Measure C, on March 1, 2017, and the commencement of Measure S, we believe that it would qualify for the Measure S provision that replaces "Commencement of Construction" date with "the Recording of the Final Map" date in the Development Agreement, thereby avoiding the necessity of returning to the Planning Commission and City Council for a future extension. Phase 2 of Valencia would be governed by the new Measure S provisions which set-forth serious constraints on issuing further extensions which would have the effect of stopping the project for many years (new Measure S applications, with different scoring requirements that it would not be very difficult to score well). That would not be in the best interest of the City nor for the buyers of Phase 1 homes (their homeowner fees would be almost doubled); and, this could have devastating financial consequences to us and the Project. We therefore: (3) Request language of the Development Agreement for Valencia Phase 2 for "Commencement of Construction" on Exhibit "B" be changed to "Filing of a Final Map."

Lastly, we just discovered that the 6 Hu Lot portion of the Project is burdened (in error) by an existing Development Agreement (that was recorded against the Hu 6 Lots on April 27, 2006, Document #189076700) for the Delco Project that was developed on the east side of Butterfield. Butterfield Blvd, bifurcated the Hu Property, creating the Hu 6 lot property on the west side of Butterfield. Recording that Development Agreement against the Hu 6 Lots was in error. Thus: (4) Request language be included in the Development Agreement Amendment authorizing the Staff to execute and record the removal of the recorded Development Agreement from the Delco Project from the Hu-6 Lots.

Very truly yours,

Dividend Homes, Inc.

By: Richard B. Oliver
President

Attachment: Letter of Justification (1213 : Development Amendment Butterfield - Dividend (2))

CITY OF MORGAN HILL

PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 23, 2017

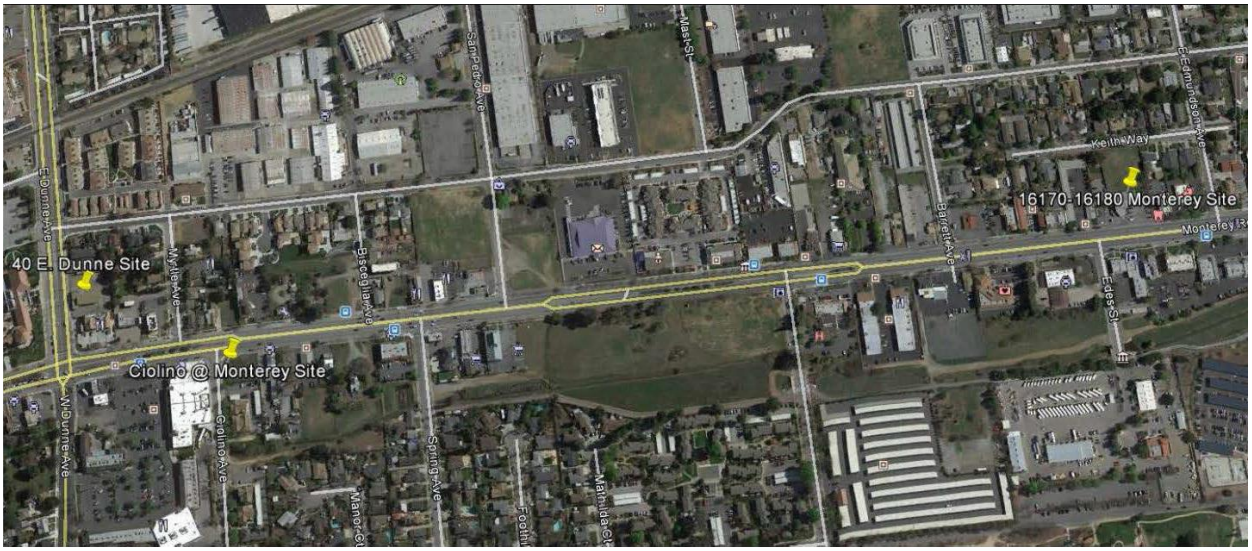
PREPARED BY: Jim Rowe, Contract Planner
APPROVED BY: Jennifer Carman, Community Development Director

PUBLIC HEARINGS: CONSIDER DEVELOPMENT AGREEMENT AMENDMENTS FOR EAH AFFORDABLE HOUSING SCATTERED SITE PROJECT; APPROVE A SIX-MONTH EXTENSION OF TIME TO THE COMMENCEMENT OF CONSTRUCTION DEADLINE (FISCAL YEAR 2016-2017).

RECOMMENDATION(S)

1. Open/conduct public hearing on requests A though C;
2. Adopt Resolutions approving extensions of allotments due to rain delays:
    a. Resolution A
    b. Resolution B
    c. Resolution C

LOCATION MAP



PROJECT SUMMARY:

Monterey Road Site (Belle Salaci)

1. Location: 16170-16180 Monterey Road (APN 817-03-055)
2. Site Area: 0.996 Acres
3. General Plan: Mixed Use Flex/Residential Attached Medium
4. Zoning: CL-R and R2-3,500

5. Request: Development Agreement Amendment to allow a six-month extension of time on 19 Fiscal Year 2016-2017 building allotments.

Ciolino/Monterey Road Site (Belle Noci)

1. Location: 16873 Monterey Road (APN 767-09-029)
2. Site Area: 0.29 Acres
3. General Plan: Multi-Family High
4. Zoning: R4 (PD)
5. Request: Development Agreement Amendment to allow a six-month extension of time on eight Fiscal Year 2016-2017 building allotments.

East Dunne Avenue Site (Belle Allori)

1. Location: 40 East Dunne Avenue (APN 817-01-080)
2. Site Area: 0.58 Acres
3. General Plan: Mixed Use
4. Zoning: CC-R
5. Request: Development Agreement Amendment to allow a six-month extension of time on 14 Fiscal Year 2016-2017 building allotments.

BACKGROUND:

EAH Housing, Inc. (EAH) proposes to build 41 units of affordable housing on three, non-contiguous sites within the City. The three sites are identified as:

1. 16170-16180 Monterey Road APN 817-03-055 (Belle Salaci) – 19 units
2. 16873 Monterey Road Avenue 767-09-029 (Belle Noci) – 8 units
3. 40 East Dunne Avenue 817-01-080 (Belle Allori) – 14 units

Ordinance No's. 2188, 2190 and 2192 dated February 17, 2016 approved Development Agreements for each project site which included a commencement of construction deadline of June 30, 2017. The applicant filed requests on April 18, 2017 requesting amendments to the three Development Agreements to approve a six-month extension of the 41 allotments to December 31, 2017. School fees for the 41 units have been paid and building permits have been issued. Site improvements have been stalled by significant amounts of rainfall preventing completion of the building pads. Although currently under construction, the applicant will not be able to meet the commencement of construction threshold which includes certification of the building pads, installation of the footings or forms for the foundations, and extension of utility laterals (sewer and water) to the project sites by the June 30, 2017 deadline.

Land Use Entitlement History

The combined project competed in one Residential Development Control System (RDCS) competition in 2015 and was awarded 41 allotments for Fiscal Year 2016-2017.

Since that time, the following items have been completed:

1. Development Agreement;
2. Subdivision Map;
3. Site and Architectural Review;
4. Improvement Plans; and
5. Building Permits

City Ordinances and Policies Governing Time Extensions

On November 8, 2016, the voters within the Morgan Hill community adopted Measure S, the replacement of the prior RDCS Ordinance. This ordinance repeals and replaces in its entirety the prior ordinances, previously codified in Division IV (Residential Development Code) of Title 18 (Zoning) of the Morgan Hill Municipal Code. The transition provisions specified in Section 18.78.030.C.1 and C.2 (Previously Approved Allotments) of the Morgan Hill Municipal Code allows for allotments awarded and exercised prior to March 1, 2017 to remain valid and not affected by the new ordinance.

Allotments awarded prior to March 1, 2017 that have not been exercised remain valid until the expiration date established at the time of allotment or as established in the project's Development Agreement. The City may grant an extension to the date by which an allotment must be exercised in accordance with the provisions outlined in Section 18.78.170 (Extensions) of the Morgan Hill Municipal Code.

ANALYSIS:

The applicant explains in the three letters dated March 24, 2017, that due to City delays and the extensive amount of rainfall this year, an additional six-month extension of time is being requested (Attachments 4, 5 and 6).

To approve the extension, as requested by the applicant, the Planning Commission would need to make findings as provided in Section 18.78.170.F (Eligibility Criteria) of the Morgan Hill Municipal Code:

"1. The Planning Commission may approve an extension only when the City or other public agency is responsible for a delay in the Issuance of permits or granting approvals required to exercise the allotments, or due to an earthquake, flood, fire, or other severe act of nature outside of the applicant's control. It is the applicant's responsibility to provide evidence that the request is consistent with this requirement.

2. The Planning Commission may not approve an extension for any reason other than in Paragraph E.1 above, including but not limited to difficulties obtaining financing, changes to the project not required by the City or other public agencies, applicant delays responding to requests from the City or other public agency, personal circumstances of the applicant, or changes in property ownership."

The applicant is seeking an extension citing delays caused by the City processing improvement plans and the excessively wet winter. In the period between October 2016 and April 2017, the City of Morgan Hill received approximately 29.3 inches of rain representing 142% of the annual rainfall within a six-month period. The excessive rainfall is considered a severe act of nature, resulting in saturated soils and flooding which left the project unable to complete the necessary grading for installation of on-site utilities or formation of building pads. Based on finding that the delays have been caused by a severe act of nature outside of the applicant's control, it is recommended the Planning Commission approve the following Resolutions:

1. Resolution A - Recommend City Council approve Development Agreement Amendment for the Monterey – EAH (Belle Salaci) project site;

2. Resolution B - Recommend City Council approve Development Agreement Amendment for the Ciolino – EAH (Belle Noci) project site; and

3. Resolution C – Recommend City Council approve Development Agreement Amendment for the East Dunne – EAH (Belle Allori) project site.

California Environmental Quality Act (CEQA):
In accordance with Section 15162 of the CEQA Guidelines (Subsequent Negative Declarations), there is no substantial evidence, in light of the whole record, that the project as revised may have a significant effect on the environment; therefore, no further environmental analysis is required. A Mitigated Negative Declaration was adopted for each project site and Notices of Determination were filed.

LINKS/ATTACHMENTS:
1. DAA Resolution A
2. DAA Resolution B
3. DAA Resolution C
4. Letter of Justification (Belle Salaci)
5. Letter of Justification (Belle Noci)
6. Letter of Justification (Belle Allori)

A

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT AAE2017-0023: MONTEREY - EAH EXTENDING THE COMMENCEMENT OF CONSTRUCTION FOR SIX-MONTHS FOR 19 FISCAL YEAR 2016-2017 BUILDING ALLOTMENTS (APN 817-03-055)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 19 building allotments for application MC-14-06: Monterey - EAH for FY 2016-2017; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government code authorizes the City of Morgan Hill to enter binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, on February 17, 2016, the City Council adopted Ordinance No. 2188, N.S. which approved a Development Agreement for application MC-14-06: Monterey - EAH; and

WHEREAS, under Section 18.78.170.F of the Municipal Code, the Planning Commission may approve an extension only when the City or other public agency is responsible for a delay in the issuance of permits or granting approvals required to exercise the allotments, or due to earthquake, flood, fire, or other severe act of nature outside of the applicant's control; and

WHEREAS, in the period between October 2016 and April 2017 the City of Morgan Hill received approximately 29.3 inches of rain representing 142 % of the annual rainfall within a six and month period. The excessive rainfall is considered a severe act of nature, has resulted in saturated soils and flooding which has left the Monterey – EAH (Belle Salaci) project unable to meet the current commencement of construction deadline.

WHEREAS, the applicant is currently requesting to amend the Development Agreement to allow for an extension of up to six-months due to delays caused by severe act of nature; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL THAT:

SECTION 1. The project has been diligent in pursuing all necessary approvals, a recorded final map and has pulled a building permit and grading permit but the extraordinary amount of rainfall has delayed the project site work resulting in delays in utility

Attachment: DAA Resolution A [Revision 1] (1211 : Development Agreement Amendment for EAH Scattered Site Project)

installation and creation building pads therefore it does meet the criteria for extension to the date by which these allotments must be exercised.

SECTION 2. Based on the findings required in Section 18.78.170 of the Municipal Code the Planning Commission approves a six-month extension for the 19, Fiscal Year 2016-2017 building allotments for MC-14-06: Monterey – EAH (Belle Salaci) and recommends the City Council amend the project Development Agreement as shown in the attachment Exhibit A.

PASSED AND ADOPTED THIS 23rd DAY OF MAY 2017, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

Jenna Luna, DEPUTY CITY CLERK

APPROVED:

Wayne Tanda, CHAIR

Attachment: DAA Resolution A [Revision 1] (1211 : Development Agreement Amendment for EAH Scattered Site Project)

Exhibit A

Exhibit C shall be amended as follows:

EXHIBIT C
DEVELOPMENT SCHEDULE

MC-14-06: Monterey - EAH
FY 2016-2017, 19 allocations

I.	**ZONING APPLICATION**		
	Application Approved:		02-03-16
II.	**SITE REVIEW APPLICATION**		
	Application Approved:		01-19-16
III.	**BUILDING PERMIT SUBMITTAL**		
	Submit plans to Building Division for plan check:		
	FY 2016-17, 19 units		01-05-17
IV.	**BUILDING PERMITS**		
	Obtain Building Permits:		
	FY 2016-17, 19 units		03-31-17
V.	**COMMENCE CONSTRUCTION:**		
	FY 2016-17, 19 units	***12-31-17***	~~06-30-17~~

Failure to obtain building permits by the dates listed above shall result in the loss of building allotments. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

If a portion of the project has been completed (physical commencement on at least one dwelling unit and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

Attachment: DAA Resolution A [Revision 1] (1211 : Development Agreement Amendment for EAH Scattered Site Project)

B

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT AAE2017-0024: CIOLINO - EAH EXTENDING THE COMMENCEMENT OF CONSTRUCTION FOR SIX-MONTHS FOR EIGHT FISCAL YEAR 2016-2017 BUILDING ALLOTMENTS (APN 767-09-029)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded eight building allotments for application MC-14-07: Ciolino - EAH for FY 2016-2017; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government code authorizes the City of Morgan Hill to enter binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, on February 17, 2016, the City Council adopted Ordinance No. 2190, N.S. which approved a Development Agreement for application MC-14-07: Ciolino - EAH; and

WHEREAS, under Section 18.78.170.F of the Municipal Code, the Planning Commission may approve an extension only when the City or other public agency is responsible for a delay in the issuance of permits or granting approvals required to exercise the allotments, or due to earthquake, flood, fire, or other severe act of nature outside of the applicant's control; and

WHEREAS, in the period between October 2016 and April 2017 the City of Morgan Hill received approximately 29.3 inches of rain representing 142 % of the annual rainfall within a six and month period. The excessive rainfall is considered a severe act of nature, has resulted in saturated soils and flooding which has left the Ciolino – EAH (Belle Noci) project unable to meet the current commencement of construction deadline.

WHEREAS, the applicant is currently requesting to amend the Development Agreement to allow for an extension of up to six-months due to delays caused by severe act of nature; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL THAT:

SECTION 1. The project has been diligent in pursuing all necessary approvals, a recorded final map and has pulled a building permit and grading permit but the extraordinary amount of rainfall has delayed the project site work resulting in delays in utility

Attachment: DAA Resolution B [Revision 1] (1211 : Development Agreement Amendment for EAH Scattered Site Project)

installation and creation building pads therefore it does meet the criteria for extension to the date by which these allotments must be exercised.

SECTION 2. Based on the findings required in Section 18.78.170 of the Municipal Code the Planning Commission approves a six-month extension for the eight, Fiscal Year 2016-2017 building allotments for MC-14-07: Ciolino – EAH (Belle Noci) and recommends the City Council amend the project Development Agreement as shown in the attachment Exhibit A.

PASSED AND ADOPTED THIS 23rd DAY OF MAY 2017, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

Jenna Luna, DEPUTY CITY CLERK

APPROVED:

Wayne Tanda, CHAIR

Attachment: DAA Resolution B [Revision 1] (1211 : Development Agreement Amendment for EAH Scattered Site Project)

Exhibit A

Exhibit C shall be amended as follows:

EXHIBIT C
DEVELOPMENT SCHEDULE

MC-14-07: Ciolino - EAH
FY 2016-2017, eight allocations

I.	**ZONING APPLICATION**		
	Application Approved:		02-03-16
II.	**SITE REVIEW APPLICATION**		
	Application Approved:		01-19-16
III.	**BUILDING PERMIT SUBMITTAL**		
	Submit plans to Building Division for plan check:		
	FY 2016-17, 8 units		01-05-17
IV.	**BUILDING PERMITS**		
	Obtain Building Permits:		
	FY 2016-17, 8 units		03-31-17
V.	**COMMENCE CONSTRUCTION:**		
	FY 2016-17, 8 units	***12-31-17***	~~06-30-17~~

Failure to obtain building permits by the dates listed above shall result in the loss of building allotments. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

If a portion of the project has been completed (physical commencement on at least one dwelling unit and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

Attachment: DAA Resolution B [Revision 1] (1211 : Development Agreement Amendment for EAH Scattered Site Project)

C

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT AAE2017-0025: DUNNE - EAH EXTENDING THE COMMENCEMENT OF CONSTRUCTION FOR SIX-MONTHS FOR 14 FISCAL YEAR 2016-2017 BUILDING ALLOTMENTS (APN 817-01-080)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded fourteen building allotments for application MC-14-05: Dunne - EAH for FY 2016-2017; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government code authorizes the City of Morgan Hill to enter binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, on February 17, 2016, the City Council adopted Ordinance No. 2192, N.S. which approved a Development Agreement for application MC-14-05: Dunne - EAH; and

WHEREAS, under Section 18.78.170.F of the Municipal Code, the Planning Commission may approve an extension only when the City or other public agency is responsible for a delay in the issuance of permits or granting approvals required to exercise the allotments, or due to earthquake, flood, fire, or other severe act of nature outside of the applicant's control; and

WHEREAS, in the period between October 2016 and April 2017 the City of Morgan Hill received approximately 29.3 inches of rain representing 142 % of the annual rainfall within a six and month period. The excessive rainfall is considered a severe act of nature, has resulted in saturated soils and flooding which has left the Dunne – EAH (Belle Allori) project unable to meet the current commencement of construction deadline.

WHEREAS, the applicant is currently requesting to amend the Development Agreement to allow for an extension of up to six-months due to delays caused by severe act of nature; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL THAT:

SECTION 1. The project has been diligent in pursuing all necessary approvals, a recorded final map and has pulled a building permit and grading permit but the extraordinary amount of rainfall has delayed the project site work resulting in delays in utility

Attachment: DAA Resolution C [Revision 1] (1211 : Development Agreement Amendment for EAH Scattered Site Project)

installation and creation building pads therefore it does meet the criteria for extension to the date by which these allotments must be exercised.

SECTION 2. Based on the findings required in Section 18.78.170 of the Municipal Code the Planning Commission approves a six-month extension for the fourteen, Fiscal Year 2016-2017 building allotments for MC-14-05: Dunne – EAH (Belle Allori) and recommends the City Council amend the project Development Agreement as shown in the attachment Exhibit A.

PASSED AND ADOPTED THIS 23rd DAY OF MAY 2017, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

Jenna Luna, DEPUTY CITY CLERK

APPROVED:

Wayne Tanda, CHAIR

Attachment: DAA Resolution C [Revision 1] (1211 : Development Agreement Amendment for EAH Scattered Site Project)

Exhibit A

Exhibit C shall be amended as follows:

EXHIBIT C
DEVELOPMENT SCHEDULE

MC-14-05: Dunne - EAH
FY 2016-2017, fourteen allocations

I.	**ZONING APPLICATION**		
	Application Approved:		02-03-16
II.	**SITE REVIEW APPLICATION**		
	Application Approved:		01-19-16
III.	**BUILDING PERMIT SUBMITTAL**		
	Submit plans to Building Division for plan check:		
	FY 2016-17, 14 units		01-05-17
IV.	**BUILDING PERMITS**		
	Obtain Building Permits:		
	FY 2016-17, 14 units		03-31-17
V.	**COMMENCE CONSTRUCTION:**		
	FY 2016-17, 14 units	***12-31-17***	~~06-30-17~~

Failure to obtain building permits by the dates listed above shall result in the loss of building allotments. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

If a portion of the project has been completed (physical commencement on at least one dwelling unit and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

Attachment: DAA Resolution C [Revision 1] (1211 : Development Agreement Amendment for EAH Scattered Site Project)

Orchards Morgan Hill, L.P.

APR 18 2017
CITY OF MORGAN HILL

2169 E. Francisco Blvd., Suite B • San Rafael, CA 94901 • Phone: 415-258-1800 • Fax:415-453-3683

March 24, 2017

Mr. Jim Rowe
Senior Planner
Community Development Department
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

RE: Site C: Belle Salici, 16170-80 Monterey Rd. (MA-14-06 & DA-15-06)

Dear Mr. Rowe,

We are requesting an extension to the "Commence Construction" deadline outlined in Exhibit C § (V) and section 4.05 to the project's Development Agreement recorded 7/14/2016. As such, we are requesting a six (6) month extension from the 6/30/2017 initial deadline. Evidence for delay

1. Evidence of City delayed approvals for this single site residential non-subdivision project, due to ineffective communication between city departments:
   a. 08/19/2016 – Submittal of 1st application for Building Permit and Improvement Plan (combined plan set).
   b. 10/14/2016 – Submittal of 2nd round Building Permit and Improvement Plan responding to plan check comments (combined plan set). No comments received from the city's public works department.
   c. 10/28/2016 – after receipt of final Building Department Plan check comments, it became clear the Public Works Department had not begun reviewing the improvement plans. with that realization, improvement plans and fee payments were submitted directly to them for review.
   d. 11/11/2016 – Senior city staff cooperated with use and the Building Permits and Plans approved and improvement agreement approved w/ developer fees paid, bonds and insurance issued. However, only the demolition permit was released, all other permits and plans were held until Public Works competed its review if the improvement Plan.
   e. 02/09/2017 – City Public Works signed the improvement plans, but would not allow the release of the previously approved Building Department permits and plans until Public Works held a preconstruction meeting w/ no work on or off site being allowed.
   f. 02/22/2017 – City Public works conducted its preconstruction meeting for the project and authorized the immediate release of the Building Department permits and plans, but out of tract (aka utility improvements in the public right of way) were delayed until the project's traffic control plan is approved, which could not be submitted until improvement plans were approved.
   g. 03/15/2017 – The project contractor was informed the traffic control plan was approved and ready for pick-up.

Attachment: Letter of Justification (Belle Salaci) (1211 : Development Agreement Amendment for EAH Scattered Site Project)

Orchards Morgan Hill, L.P.

2169 E. Francisco Blvd., Suite B • San Rafael, CA 94901 • Phone: 415-258-1800 • Fax:415-453-3683

2. The city requested the project increase the size of the water line in Monterey Rd. and extend to Edmundson Ave. beyond the limits of the project, after public works started reviewing the improvement plans.

3. Compounding item 1 (d-g) above, we have experienced historically significant rain events starting in December 2016 and continuing through March 2017, which have saturated the site and have halted construction resulting a series of force majeure events caused by poor weather conditions.

   a. Sample Site Photo – March 24th:

Thank you for your cooperation and please contact me if you have any questions. A uniform application and mandated DAA fee totaling $5,254 are attached use. Also, we do request that the city waive the fee requirement given the unit circumstances causing the delay.

Sincerely,

Dave Egan

Dave Egan
Area Director, Real Estate Development, EAH
for Orchards Morgan Hill, L.P.

Enclosures

Attachment: Letter of Justification (Belle Salaci) (1211 : Development Agreement Amendment for EAH Scattered Site Project)

DEVELOPMENT SERVICES
APR 18 2017
CITY OF MORGAN HILL

Orchards Morgan Hill, L.P.

2169 E. Francisco Blvd., Suite B • San Rafael, CA 94901 • Phone: 415-258-1800 • Fax:415-453-3683

March 24, 2017

Mr. Jim Rowe
Senior Planner
Community Development Department
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

RE: Site B: Belle Noci, 16873 Monterey Rd. (MA-14-07 & DA-15-07)

Dear Mr. Rowe,

We are requesting an extension to the "Commence Construction" deadline outlined in Exhibit C § (V) and section 4.05 to the project's Development Agreement recorded 7/14/2016. As such, we are requesting a six (6) month extension from the 6/30/2017 initial deadline. Evidence for delay

1. Evidence of City delayed approvals for this single site residential non-subdivision project, due to ineffective communication between city departments:
   a. 08/19/2016 – Submittal of 1st application for Building Permit and Improvement Plan (combined plan set).
   b. 10/14/2016 – Submittal of 2nd round Building Permit and Improvement Plan responding to plan check comments (combined plan set). No comments received from the city's public works department.
   c. 10/28/2016 – after receipt of final Building Department Plan check comments, it became clear the Public Works Department had not begun reviewing the improvement plans. with that realization, improvement plans and fee payments were submitted directly to them for review.
   d. 11/11/2016 – Senior city staff cooperated with use and the Building Permits and Plans approved and improvement agreement approved w/ developer fees paid, bonds and insurance issued. However, all permits and plans were held until Public Works competed its review if the Improvement Plans.
   e. 02/09/2017 – City Public Works signed the improvement plans, but would not allow the release of the previously approved Building Department permits and plans until Public Works held a preconstruction meeting w/ no work on or off site being allowed.
   f. 02/22/2017 – City Public works conducted its preconstruction meeting for the project and authorized the immediate release of the Building Department permits and plans, but out of tract (aka utility improvements in the public right of way) were delayed until the project's traffic control plan is approved, which could not be submitted until improvement plans were approved.
   g. 03/15/2017 – The project contractor was informed the traffic control plan was approved and ready for pick-up.

2. The city requested the project extend the storm drain along Ciolino Ave. beyond the limits of the project, causing delays in the improvement plans delaying the initial submittal to 8/19/2016.

Attachment: Letter of Justification (Belle Noci) (1211 : Development Agreement Amendment for EAH Scattered Site Project)

Orchards Morgan Hill, L.P.

2169 E. Francisco Blvd., Suite B • San Rafael, CA 94901 • Phone: 415-258-1800 • Fax:415-453-3683

3. Compounding item 1 (d-g) above, we have experienced historically significant rain events starting in December 2016 and continuing through March 2017, which have saturated the site and have halted construction resulting a series of force majeure events caused by poor weather conditions.

   a. Sample Site Photo – March 24th:

Thank you for your cooperation and please contact me if you have any questions. A uniform application and mandated DAA fee totaling $5,254 are attached use. Also, we do request that the city waive the fee requirement given the unit circumstances causing the delay.

Sincerely,

Dave Egan

Dave Egan
Area Director, Real Estate Development, EAH
for Orchards Morgan Hill, L.P.

Enclosures

Attachment: Letter of Justification (Belle Noci) (1211 : Development Agreement Amendment for EAH Scattered Site Project)

DEVELOPMENT SERVICES
APR 18 2017
CITY OF MORGAN HILL

Orchards Morgan Hill, L.P.

2169 E. Francisco Blvd., Suite B • San Rafael, CA 94901 • Phone: 415-258-1800 • Fax:415-453-3683

March 24, 2017

Mr. Jim Rowe
Senior Planner
Community Development Department
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

RE: Site A: Belle Allori, 40 E. Dunne Ave. (MA-14-05 & DA-15-08)

Dear Mr. Rowe,

We are requesting an extension to the "Commence Construction" deadline outlined in Exhibit C § (V) and section 4.05 to the project's Development Agreement recorded 7/14/2016. As such, we are requesting a six (6) month extension from the 6/30/2017 initial deadline. Evidence for delay

1. Evidence of City delayed approvals for this single site residential non-subdivision project, due to ineffective communication between city departments:
   a. 08/19/2016 – Submittal of 1st application for Building Permit and Improvement Plan (combined plan set).
   b. 10/14/2016 – Submittal of 2nd round Building Permit and Improvement Plan responding to plan check comments (combined plan set). No comments received from the city's public works department.
   c. 10/28/2016 – after receipt of final Building Department Plan check comments, it became clear the Public Works Department had not begun reviewing the improvement plans. with that realization, improvement plans and fee payments were submitted directly to them for review.
   d. 11/11/2016 – Senior city staff cooperated with use and the Building Permits and Plans approved and improvement agreement approved w/ developer fees paid, bonds and insurance issued. However, only the demolition permit was released, all other permits and plans were held until Public Works competed its review if the improvement Plan.
   e. 02/09/2017 – City Public Works signed the improvement plans, but would not allow the release of the previously approved Building Department permits and plans until Public Works held a preconstruction meeting w/ no work on or off site being allowed.
   f. 02/22/2017 – City Public works conducted its preconstruction meeting for the project and authorized the immediate release of the Building Department permits and plans, but out of tract (aka utility improvements in the public right of way) were delayed until the project's traffic control plan is approved, which could not be submitted until improvement plans were approved.
   g. 03/15/2017 – The project contractor was informed the traffic control plan was approved and ready for pick-up.

2. The city requested, in October, 2016, the project to underground utilities beyond the limits of the project. The underground work telephone, PG&E electric, Cable and Internet services and

Attachment: Letter of Justification (Belle Allori) (1211 : Development Agreement Amendment for EAH Scattered Site Project)

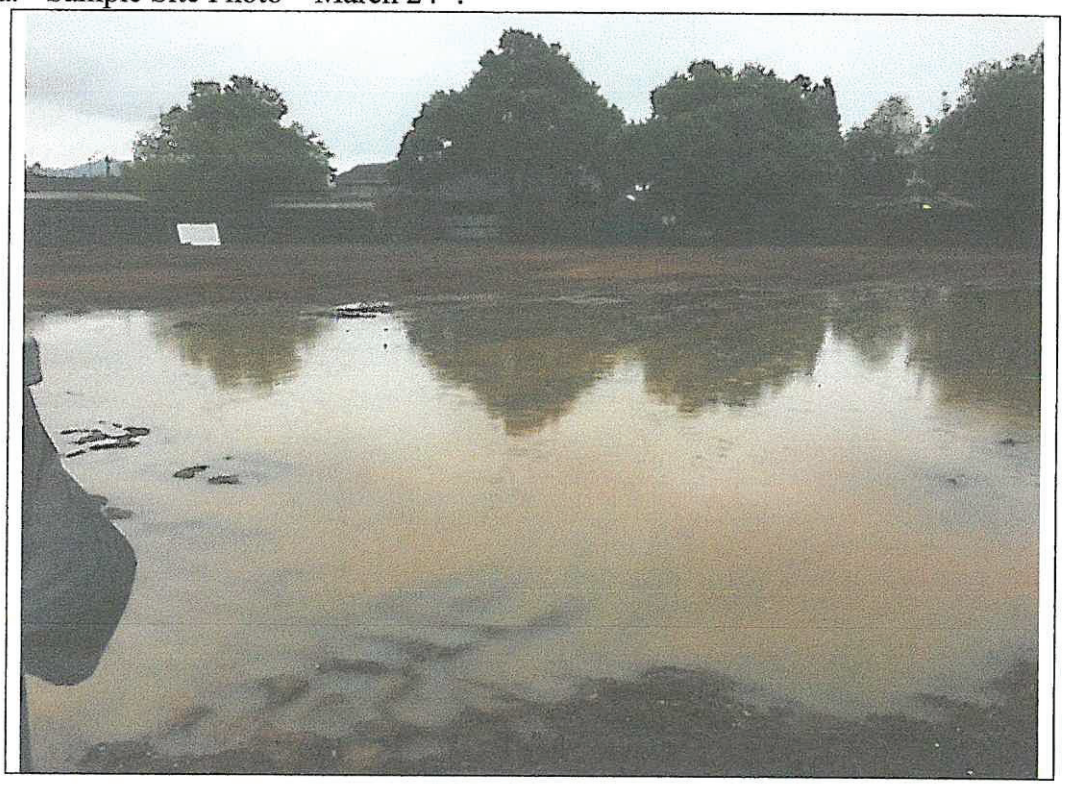
Orchards Morgan Hill, L.P.

2169 E. Francisco Blvd., Suite B • San Rafael, CA 94901 • Phone: 415-258-1800 • Fax:415-453-3683

sidewalk replacement from our site to Church Street. This request caused delays in the redesign and resubmittal of these plans to PG&E and the other utilities involved. To this day, PG&E has not approved the revised submittal.

3. Compounding item 1 (d-g) above, we have experienced historically significant rain events starting in December 2016 and continuing through March 2017, which have saturated the site and have halted construction resulting a series of force majeure events caused by poor weather conditions.

   a. Sample Site Photo – March 24th:



Thank you for your cooperation and please contact me if you have any questions. A uniform application and mandated DAA fee totaling $5,254 are attached use. Also, we do request that the city waive the fee requirement given the unit circumstances causing the delay.

Sincerely,

Dave Egan

Dave Egan
Area Director, Real Estate Development, EAH
for Orchards Morgan Hill, L.P.

Enclosures

Attachment: Letter of Justification (Belle Allori) (1211 : Development Agreement Amendment for EAH Scattered Site Project)