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On March 8, 2016 these applications were considered by the Planning Commission. The project at that time contained 16 units consisting of 11, 3-story townhouse units, two single family attached units and three single family homes. The Commission at that time tabled the application request and directed the applicant to make the following adjustments to the project:

- On July 27, 2016, the City Council adopted the 2035 General Plan which changed the land use designation on the site from Multi-Family Medium (14-21du/ac) to Residential Attached Low (6-16 du/ac).

# **ZONING AMENDMENT, ZA-13-07/SUBDIVISION, SD-13-08/DEVELOPMENT AGREEMENT, DA-13-05: WE. DUNNE-GERA**

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## **ANALYSIS**

The proposed zoning, subdivision and DA request were analyzed with respect to consistency with the 1) General Plan; 2) Zoning Ordinance 3) Downtown Specific Plan policies and 4) California Environmental Quality Act.

### **1) General Plan goals and policies**

The site has a land use designation of Residential Attached Low (6-16 units per acre). The Residential Attached Low land use designation allows for both single-family detached, single family attached and multi-family residences. The net developable site area is 1.2 acres; when divided by 14 (number of dwelling units proposed) the project density is 12 dwelling units to the acre.

### **CITY AND NEIGHBORHOOD FORM ELEMENT**

The project site is an in-fill site surrounded by existing development. It provides a variety of housing types which will minimize the monotony but also provides for various socioeconomic housing opportunities. The project utilizes clustering to provide both public and private open space and preservation of cultural and biological resources. The following City and Neighborhood Form Goals and Policies apply:

### **GOAL CNF-2 An improved, orderly, and efficient pattern of urban development.**

**Policy CNF-2.1 Orderly Development.** Promote the orderly development of the City, with concentric growth and infill of existing developed areas.

### **GOAL CNF-3 A growth management system that maintains a population cap, a metered pace of development, and high level of community amenities, and that is clear, fair, flexible, and streamlined.**

**Policy CNF-3.10 Multi-Family Housing.** Maintain an adequate supply of allotments available for multi-family and affordable housing consistent with the City's adopted Housing Element.

### **GOAL CNF-8 A visually attractive urban environment.**

**Policy CNF-8.1 High Quality Design.** Require all development to feature high quality design that enhances the visual character of Morgan Hill.

**Policy CNF-8.2 Design Features.** Encourage design features and amenities in new development and redevelopment, including, but not limited to:

- ☐ Highly connected street layouts, supporting multiple paths of travel for all modes.
- ☐ Cluster buildings to create useable open space.
- ☐ Abundant landscaping.
- ☐ Attractive transitions between uses.
- ☐ Comfortable pedestrian facilities that promote a high level of pedestrian activity.
- ☐ Distinctiveness and variety in architectural design.

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**Policy CNF-8.7 Design Sensitivity.** Ensure that new development is sensitive to the character of adjacent structures and the immediate neighborhood.

**Policy CNF-8.12 Visual Impact of Parking.** Require parking areas associated with development to be located and designed to minimize visual impact to the greatest extent feasible. This may include locating parking behind buildings street frontage, below grade, or screening through the use of natural landscaping.

**Policy CNF-8.13 Permeable Surface Materials.** Encourage construction of parking areas, trails, and access roads with permeable materials where appropriate.

**Policy CNF-8.14 Sound Walls.** Minimize the use of sound walls to situations where they are required to meet noise standards and other forms of mitigation are not available. Use techniques less visually disturbing than sound walls, including but not limited to earth berms and intervening placement of nonsensitive buildings when requiring noise impact mitigation of new and/or expanded development.

**Policy CNF-8.15 Streetscape Improvement Maintenance.** Ensure adequate maintenance of streetscape improvements.

**Policy CNF-8.16 Undergrounding of Utilities.** Require the undergrounding of all utilities, or a deferred improvement agreement, in conjunction with new construction and encourage the undergrounding of existing utilities where feasible.

**GOAL CNF-10 A variety of housing types and densities available to all residents.**

**Policy CNF-10.1 Range of Residential Densities.** Continue to provide for a full range of residential land use densities and building types, within the General Plan and Zoning Ordinance.

**Policy CNF-10.3 Adequate Supply of Multi-Family Housing.** Provide for an adequate supply of multi-family housing, located convenient to shopping, services, and transportation routes. **Policy CNF-10.6 Density Near Infrastructure.** Encourage higher residential densities at locations where convenient access and adequate infrastructure is readily available.

**Policy CNF-10.7 Range of Parcel Sizes.** Utilize a full range of parcel sizes and land use categories in the City's Zoning Ordinance to provide for a variety of residential densities and housing types.

**GOAL CNF-11 High quality, aesthetically pleasing, livable, sustainable, well-planned residential neighborhoods, well-connected to neighborhood services.**

New Subdivisions

**Policy CNF-11.2 Well-Designed Residential Neighborhoods.** Design residential neighborhoods so they are distinct and buffered from conflicting nonresidential uses.

**Policy CNF-11.7 Clustering of Residential Units.** Encourage the clustering of residential units to provide open space and recreation areas, and to provide buffer areas between different land uses (e.g., industrial and residential).

**Policy CNF-11.9 Continuous Sidewalks.** Require continuous sidewalks along both sides of the street frontage.

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**Policy CNF-11.10 Open Space.** Require new subdivisions to feature integrated common open spaces, parks, and community facilities that serve as social and design focal points. Open spaces should be a close walking distance from all residents and should be large enough to be useful for residents.

**Policy CNF-11.20 Infill Compatibility.** Require residential infill development to complement existing development patterns and minimize impacts on neighboring properties. This may be accomplished by:

- ☐ Matching prevailing front and side setbacks on developed blocks.
- ☐ Breaking up large buildings into smaller forms reflective of the scale of nearby structures.
- ☐ Stepping back upper stories of taller structures.
- ☐ Using porches or balconies to counteract the vertical emphasis of taller buildings.
- ☐ Using trees and landscaping to soften scale differences, particularly in areas where trees and vegetation are unifying aspects of community character.

**Policy CNF-11.11 Mix of Housing Types.** Encourage a mix of housing types and lot sizes within residential projects with five or more lots or units.

**GOAL HC-8 Historic identity and cultural resources that are preserved for future generations.**

**Policy HC-8.1 Identify and Protect Resources.** Identify and protect heritage resources from loss and destruction. (South County Joint Area Plan 15.09)

**Policy HC-8.2 Historic Structures.** Encourage the preservation and rehabilitation of the City's historic structures.

**Policy HC-8.3 Demolition.** Prior to approving demolition or alteration of historically significant buildings, evaluate alternatives, including structural preservation, relocation or other mitigation, and demonstrate that financing has been secured for replacement use.

**NATURAL RESOURCES AND ENVIRONMENT**

The proposed project layout has units facing Dunne Avenue which allows for the elimination of need for sound walls and provides a 50-foot wide buffer from the creek and adjacent gas station use.

The project must comply with the Uniform Building Code as adopted by the City which requires a minimum of 90 points for Build It Green and compliance with the City's Water Conservation Landscape ordinance. The retention of the (deciduous) on-site trees will provide ample on-site shade and winter day-lighting for the proposed units. The non-development of Lot 15 allows for preservation of the creek and riparian area as open space.

An arborist report was completed as part of the environmental initial study. Healthy native and non-native trees are to be protected and preserved to the greatest extent possible.

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The following Natural Resources and Environment Goals and Policies apply:

**GOAL NRE-1 Preservation of open space areas and natural features.**

**BIOLOGICAL RESOURCES**

**GOAL NRE-5 Preservation and reclamation of streams and riparian areas as open space.**

**Policy NRE-5.6 Stream Channel Protection.** Protect existing stream channels and riparian vegetation by requiring buffering or landscaped setbacks and storm runoff interception as specified in Table NRE-1.

TABLE NRE-1: Category 2 Streams (Water Present During the Wet Season Only During Normal Rain Years)--0-30% slope = 35 feet

**GOAL NRE-6 Protection of native plants, animals, and sensitive habitats.**

**The project**

**Policy NRE-6.4 Tree Preservation and Protection.** Preserve and protect mature, healthy trees whenever feasible, particularly native trees, historically significant trees, and other trees which are of significant size or of significant aesthetic value to the immediate vicinity or to the community as a whole.

**GOAL NRE-12 Minimized air pollutant emissions from demolition and construction activities.**

**Policy NRE-12.1 Best Practices.** Requirement that development projects implement best management practices to reduce air pollutant emissions associated with construction and operation of the project.

**Policy NRE-12.2 Conditions of Approvals.** Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current Bay Area Air Quality Management District CEQA Guidelines.

**Policy NRE-12.3 Control Measures.** Require construction and demolition projects that have the potential to disturb asbestos (from soil or building material) to comply with all the requirements of the California Air Resource Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

**SAFETY, SERVICE AND INFRASTRUCTURE**

Public utilities and services are available at the site without significant expansion or impact to the existing services. The project will include its own on-site detention that is required to be sized to maintain pre-development run-off conditions. Minimizing development adjacent to the creek will allow the SCVWD to plan and install future creek improvement consistent with the PL 566 flood control improvements.

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An acoustical report was completed as part of the environmental initial study to assess noise exposure from West Dunne Avenue, Monterey Road and the adjacent gas station. Mitigation measures have been approved which require the proposed homes to meet interior and exterior noise standards. Limitations on noise are also imposed as part of the project mitigation which also limits the days and hours of construction.

The project includes on-site detention and has completed a flood study which determined there would be an insignificant impact if the proposed units are setback 50 feet from the top bank of the creek.

The following Safety, Service and Infrastructure goals and policies apply:

**GOAL SSI-1 Development that avoids or minimizes risks from environmental hazards.**

**Policy SSI-1.5 Cluster Development.** Cluster development in hazardous areas with dwellings grouped on the least hazardous portion of the property. (South County Joint Area Plan 15.02e)

**FLOOD HAZARDS**

**GOAL SSI-5 The least possible damage to persons and property from flooding.**

**Policy SSI-5.1 Development in Floodways and Floodplains.** Prohibit development in floodways and regulate development in floodplains to minimize flood damage and be consistent with the federal flood insurance program. (South County Joint Area Plan 15.05)

**Policy SSI-5.2 Private Development in Flood-Prone Areas.** If development is allowed in flood-prone areas, provide flood control facilities or appropriate flood-proofing prior to or in conjunction with development at developers' expense. (South County Joint Area Plan 12.05)

**Policy SSI-5.3 Flood Clearance.** Prior to the start of construction, a Flood Clearance shall be obtained from the Floodplain Administrator for the City of Morgan Hill that provides plans drawn to scale showing the nature, location, dimensions, and elevation of the area; existing or proposed structures, fill, storage of material, and drainage facilities, and floodproofing provisions. Specifically, the following information shall be required:

- ☐ Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures.
- ☐ Proposed elevation in relation to mean sea level to which any structure will be floodproofed.
- ☐ Appropriate elevation and floodproofing certifications.
- ☐ Description of the extent to which any water course will be altered or relocated as a result of the proposed development.

New residential buildings in the 100-year floodplain shall have their lowest floor elevation (excluding garage) floodproofed or raised a minimum of 1 foot above the

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base flood elevation (BFE). Substantially improved structures within the 100-year floodplain shall meet the same floodplain construction requirements as new buildings.\*

**Policy SSI-5.5 Off-Site Impacts.** Require all local development to provide appropriate mitigation of off-site flooding impacts, including limiting runoff to predevelopment levels and/or complete solutions to flooding and local drainage problems in the vicinity of the development, using such methods as detention or retention. (South County Joint Area Plan 12.08)

**Policy SSI-6.6 Flood Management Design.** Encourage flood management designs that respect the natural topography and vegetation of waterways while retaining dynamic flow and functional integrity.

**Policy SSI-6.7 Urban Creeks and Channels.** Preserve the existing floodplain capacity of urban creeks and channels.

**GOAL SSI-16 Minimized adverse effects on property, natural resources, and ground and surface water quality from stormwater runoff.**

**Policy SSI-16.2 Drainage System Capacity.** Ensure that the level of detention or retention provided on the site of any new development is compatible with the capacity of the regional storm drainage system

**NOISE**

**GOAL SSI-8 Prevention of noise from interfering with human activities or causing health problems.**

**Policy SSI-8.1 Exterior Noise Level Standards.** Require new development projects to be designed and constructed to meet acceptable exterior noise level standards (see Table SSI-1), as follows: □ Apply a maximum exterior noise level of 60 dBA Ldn in residential areas where outdoor use is a major consideration (e.g., backyards in single-family housing developments and recreation areas in multi-family housing projects). Where the City determines that providing an Ldn of 60 dBA or lower cannot be achieved after the application of reasonable and feasible mitigation, an Ldn of 65 dBA may be permitted. □ Indoor noise levels should not exceed an Ldn of 45 dBA in new residential housing units. □ Noise levels in new residential development exposed to an exterior Ldn 60 dBA or greater should be limited to a maximum instantaneous noise level (e.g., trucks on busy streets, train warning whistles) in bedrooms of 50 dBA. Maximum instantaneous noise levels in all other habitable rooms should not exceed 55 dBA. The maximum outdoor noise level for new residences near the railroad shall be 70 dBA Ldn, recognizing that train noise is characterized by relatively few loud events.

**Policy SSI-8.9 Site Planning and Design.** Require attention to site planning and design techniques other than sound walls to reduce noise impacts, including: a) installing earth berms, b) increasing the distance between the noise source and the receiver; c) using non-sensitive structures such as parking lots, utility areas,

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and garages to shield noise sensitive areas; d) orienting buildings to shield outdoor spaces from the noise source; and e) minimizing the noise at its source.

Staff finds the project as proposed consistent with the applicable General Plan goals and policies.

## **2) Zoning**

### Zoning Amendment

The project site has an existing zoning designation of D-R-3 but to achieve compatibility with the Residential Attached Low General Plan land use designation the applicant is requesting a Planned Development (PD) overlay for the project site and to rezone the site to Downtown R-2 /PD.

The proposed zoning amendment action includes the rezoning of the property from D-R-3 to Downtown R-2 /PD, approval of a Planned Development (PD) overlay zone and adoption of a precise development plan for a 1.41-acre site consisting of four adjacent parcels.

The proposed precise development plan includes the construction of eight townhouse units, one single family attached duet, and three single family detached homes and the retention of one of the three existing single family homes. A .21-acre portion of the site (Lot 15) is proposed as common open space parcel.

The project site plan indicates that the two single-family attached units and the three single-family residences will front onto West Dunne Avenue. A two-way private street is proposed creating a loop through the project and connecting back to West Dunne Avenue. All of the proposed and the retained existing unit will take access from the proposed loop street. Due to the site's proximity to the Monterey Road intersection the site access is limited to a right-in, right-out only at the easterly driveway and left/right entrance/exit from the westerly driveway.

West Little Llagas Creek: The project site includes a 231-foot length of West Little Llagas Creek along its easterly boundary so the majority of the site is within flood zone AE. Base flood elevation for the site according to the FEMA map ranges from 340 to 343 foot elevation. The natural elevation for the site is 340 feet. Based on the flood study completed for the project, change in elevation resulting from any fill placed within 50 feet from top bank of creek could potentially result in flooding on adjacent sites. The site plan for the project places the open space parcel (lot 15) and a 3644 sq. ft. portion of lot nine adjacent to the creek. Picnic table and BBQ amenities are proposed with the open space parcel along with seven guest parking spaces. A portion of lot nine is also adjacent to the creek and is the area proposed for the relocation of the existing barn which will serve as the covered parking for the existing house. Increase run-off



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generated from development of the site will be collected and stored/retained in tanks located under the private road.

Cultural Resources: A cultural resources evaluation was completed as part of the initial study which concluded the house located at 45 West Dunne Avenue is significant on a local level. In addition to the house, the barn located adjacent to the creek is also deemed significant due to its age and its representation of Morgan Hill's early residential development. The other two houses located at 55 and 59 West Dunne Avenue were not considered significant. The existing residence at 45 West Dunne is proposed to be retained as part of the project on lot nine. A previously mentioned existing barn is proposed to be moved from its current location to a portion of lot nine and will serve as the covered single car garage for the existing home. The other two existing houses at 55 and 59 West Dunne Avenue were also evaluated for historical significance but were determined to lack any eligible features and will be demolished as part of the project.

The relocated barn will be setback 20 feet from West Dunne Avenue and will retain its current orientation with the front elevation parallel with West Dunne Avenue. The west elevation of the barn will be modified to include sliding barn doors for single vehicle parking access. The existing barn doors on the south side of structure will be fixed in a close position. The proposal to relocate the barn and alter its west elevation was reviewed by an architectural historian to determine any negative impacts (see attached memorandum from Carey & Co.). The historical evaluation concludes the proposed relocation closer to the main house would preserve the historic context and would have a less-than-significant impact on the site's historic resources. The memorandum further concludes that any alterations must be done in compliance with the Secretary of the Interior's Standards.

Site Development Standards: The purpose of the PD overlay zone is to allow flexibility in the City's site development standards in exchange for open space areas, affordable housing units, and enhanced site design. Standard practice with planned developments has been to keep exceptions to within 25 percent of the base development standards, and frequency of occurrence.

The zoning on the property is currently D R-3, Downtown Medium density residential. On July 27, 2016 the City adopted a new General Plan which changed the land use designation on the site from Multi-Family Medium (14-21 du/ac) to Residential Attached Low (6-16 du/ac). The corresponding zoning designation for Residential Attached Low is Downtown R-2 which permits single family detached, single family attached and multi-family dwellings. Applying the Downtown R-2 development standards to the townhouse units results in the need for exceptions to minimum lot size (should be 3,400 sq. ft.), minimum lot width (40 ft.), minimum side setback (5 ft.) and front setback (15 ft. or 20 ft. if facing an arterial). A total of 28 exceptions (with 17 exceeding the 25 percent limitation) result from using the R-2 standards.

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When the development standards from Morgan Hill Municipal Code MHMC, Chapter 18.29 Medium Density Residential Development are applied, the number of exceptions decreases to 12 with three exceptions exceeding the 25 percent limitation (See attached Medium Density Development Standards chart). The application of the standards from Chapter 18.29 also requires the provision of public and private open space depending on the average lot area. The town house unit's average lot size is 1957 square feet, the single family lots average 4049 square feet, all lots together (excluding lots 15 and 16) average 3003. The private open space required per MHMC 18.29.060 (A) is 4200 square feet (300 square feet per unit). Each of the townhouse units has a rear yard area of at least 324 square feet and the single-family units have private rear yard areas of 360 square feet or larger. The total private rear yard area (5065 square feet), provided exceeds the 4200 square feet required. The common open space required per MHMC 18.29.060 (A) is 2450 square feet (175 square feet per unit); the common area parcel (lot 15) is 8972 square feet.

Approval of the requested PD overlay will allow for the following exceptions to the base the Medium Density Residential Development Standards.

- ✓ The center townhouse units (2 & 3, 6 & 7) do not meet the maximum FAR of 55 percent. The proposed exceptions are within the 25 percent limitation guideline.
- ✓ The duet units (lots 13 & 14) require deviation from the minimum lot size, minimum lot width and minimum lot depth. The exceptions to lot width and depth are five to seven feet below standard (8-17 percent exception). The exception to the minimum lot size (3000 square feet) is 1022-1218 or 34 & 41 percent. This exception fall outside the 25 percent limitation.
- ✓ One of the single family detached lots (lot 12) falls below the 4500 square foot minimum and below the 25 percent exception rule by 85 square feet representing a 27 percent exception.

The attached Medium Density Development Standards chart shows the applicable development standards for each lot using the Medium Density Residential Development standards. The areas highlighted in the table are discussed above and indicate the instances where the zoning requirements are not met. The highlighted areas with red text indicate instances where the deviation proposed exceeds the 25 percent guideline.

The proposed PD plan generally meets the Medium Density zoning standards with the exception of the minimum lot size and lot width. The most significant deviation is the size of lots 13 & 14 which require exceptions of greater than 25 percent.

In exchange for the requested flexibility, the project site design includes the following features:

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- Circulation: The speeds along West Dunne Avenue precluded direct drive way access onto to Dunne for the individual units. The parking access for all units is from an internal private drive.
- Flooding: Site planning maintain a 50-foot setback from the top of the creek bank, which is 15 feet in excess of the minimum 35-foot General Plan requirement.
- Common Open Space: The project as proposed provides three time the minimum required common open space.
- Significant Trees: The project has a total of 22 significant trees, with the majority (20) assessed as in “good” or “excellent” health by the arborist. The site plan as proposed has designed around a majority (16) of the trees with one healthy tree to be relocated) with one healthy tree and four trees rated in poor health to be removed. The project also proposes pervious pavers for the drive-aisle within the more heavily wooded area of the site providing additional mitigation for potential impact to the root zones for the significant trees.
- Historic Preservation: The project design incorporates the two structures located at 45 West Dunne Avenue that have potential local historical significance. The house will be retained and the barn relocated to lot nine.
- Noise: The project design faces units onto to Dunne Avenue limiting the need for a six-foot tall wall along the project frontage to mitigate the traffic noise from West Dunne Avenue. The 50-foot buffer provided by lots nine and 15 also provide a sufficient buffer from the noise (current and future) generated from Monterey Road and the adjacent gas station.

In conclusion, the exceptions both in number and magnitude do not appear excessive given the locational and physical constraints present on the property. These exceptions are off-set by a project design that creates appropriate setback from the creek, a safe circulation plan, the preservation of a historic house and barn, the preservation of significant heritage oak trees and provision of common area open space.

Parking: Parking for all units will be accessed from the private loop street. The Downtown Specific Plan references the parking standards contain in Chapter 18.50 of the Municipal Code which require single family parking at two covered spaces per unit with a 20-foot x 20-foot driveway and multi-family at one covered space per unit. Since each of the town house units has 3 bedrooms, each unit must be provided with 2.5 spaces (with one space covered). Using these standards, the project should have 20 covered spaces with an on-site total of 32 spaces. The project provides 25 covered spaces; each of the townhouse units has two covered space and three of the six single family units have a two car garage and a two car drive-way. Two of single family units (lots 13 &14) have one covered space and one car driveways and one lot (lot 9) has one covered space but lacks the required driveway. Guest parking is not required for projects within the Downtown Specific Plan area but the plan incorporates nine on-site guest spaces that when combined with the covered parking provides a total of 34 on-

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site parking spaces. Approximately 11 cars can also be accommodated along the Dunne Avenue project frontage.

Overall the project exceeds the covered parking requirement however three of the single-family units do not meet the per unit covered parking requirement and one lacks the required 20-foot x 20-foot driveway. Considered the project as a whole meets the on-site parking requirement, the exception to the covered parking for two units and lack of drive-way on one unit seems appropriate given the other benefits provided by the project.

Subdivision

The subdivision map will include 14 residential lots ranging in size from 1681 square feet to 9640 square feet. The maintenance of the private streets and common area parcel (lot 15) would be the responsibility of the Homeowners Association. The following conditions of approval (included in subdivision resolution) are recommended:

- The size of lot one be decreased to exclude the landscape area on the west side of the project driveway (labeled as “existing hedge” on site plan). This area should be joined within the common area parcel (lot 16) that includes the project drive-aisle.
- A note should be placed on lot nine precluding any further subdivision and prohibiting habitable dwellings in the lot nine area east of the drive-aisle.
- A 20-foot wide landscape easement precluding fencing in excess of three feet in height shall be included along the Dunne Avenue frontage of lot nine.
- A note should be placed on lot 15 specifying it is open space and precluding any development or subdivision.

**3) Downtown Specific Plan Goals, Policies and Actions**

The Morgan Hill General Plan identifies a goal of the Downtown to be “a vibrant, identifiable downtown”. The following land use goals and objectives are to guide public planning and implementation activities.

Applicable Goals and Objectives from the Downtown Plan.

- Increase allowable density in the residential neighborhood west of Monterey Road and along Dunne Avenue, Fifth Street, and part of Fourth Street (Blocks 13 and 14).

Applicable Downtown Specific Plan Policies

- Encourage the preservation of the small-scale residential neighborhoods west of Monterey Road and north of Fourth Street.
- Encourage development surrounding Downtown to promote transit-oriented, pedestrian-friendly development that would complement Downtown.

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The proposed plan implements the Downtown Specific Plan goals by increasing the number of residential units around the downtown specifically Block 14. The plan as proposed preserves an existing historic home and also include new single family homes along Dunne Avenue that are similar in size and massing as other existing homes along Dunne Avenue which will help preserve the small-scale residential feel in that area.

The Downtown Specific Plan states, *“To achieve the purpose of the PD overlay district, variations from the standards [of the Downtown Specific Plan] and in Division I of the Morgan Hill Zoning Ordinance may be allowed as long as the variations are consistent with the overall intent, goals, and policies of this Specific Plan.”*

The purpose of the PD overlay district as outlined in the Downtown Specific Plan includes the following:

- Facilitate and promote coordination of design, access, use, and other features associated with development of multiple adjacent properties or large single properties;
- Encourage flexibility of site planning when it will enhance the area in which it is proposed; and
- Allow construction and reservation of housing units for lower income or senior households.

The proposed PD plan promotes a coordinated design that aggregates the development of four parcels. The proposed design provides for a looping access road eliminating the need for individual drive-way cuts onto Dunne Avenue. The amendment would diversify the housing types and the housing opportunities available to the residents of the City; the amendment would allow for a safe circulation plan; allow for clustering the homes away from the creek; the PD would allow preservation of multiple heritage trees and two locally historic structures. The proposed plan benefits the health and welfare of the occupants of the proposed development and the City as a whole. With approval of the proposed PD overlay zoning, the project would comply with the goals and policies of the Downtown Specific Plan.

### Development Agreement

The project site is located within the boundaries of Measure A; a voter initiative that exempted 500 residential units in a 20-block area of Downtown from the City's Residential Development Control System. Currently, 220 of the 500 exempt building allotments have been used or reserved by other Downtown projects. The applicant is requesting to utilize 11 (+2 replacement units) of the remaining 220 Measure A exempt building allotments.

In order to obtain any of the exempt allotments, Measure A requires a developer to enter into a Development Agreement and ***“comply with the Downtown Plan and all***

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***applicable rules and regulations in effect at the time of entry into a Development Agreement, including but not limited to applicable zoning and planning documents.***” The developer must also obtain approval of a Design Permit whereby the project design must be found consistent with the design guidelines of the Downtown Specific Plan.

While not required by Measure A, the agreement establishes a two-year timeframe to utilize the 11, Measure A allotments.

**4) CEQA (California Environmental Quality Act)**

An initial study has been completed which concluded that the currently proposed project would not result in any significant impacts that could not be addressed through mitigation measures. The initial study document has been updated to address the revised site plan. A copy of the revised initial study and appendix documents are available on the City web site. Impacts identified in the study include: Air Quality, Biological Resources, Cultural Resources, Geology and Soil, Hazardous Materials, Hydrology/water quality and Noise.

Air Quality/Hazardous materials: Impact potentially exists from exposure to dust and soil which may be contaminated with lead, asbestos, arsenic and other pesticide residue due to the sites past agricultural use and the age of the existing structures. Although the project’s construction-related air pollutant emissions would not exceed the BAAQMD’s applicable significance thresholds, mitigation measures have been included to reduce the project’s construction emissions. Prior to any demolition of the existing buildings, the contractor will have to have a hazardous building materials survey completed. All mitigations resulting from the survey will have to be followed.

Biological: The project site has 22 significant trees; with the majority of them oak trees. The oaks are generally listed in the arborist report as good to excellent in health and have been incorporated into it the proposed development plan as much as practical. Any of the oaks that are removed will have to be mitigated with a replacement planting at a one to one ratio. Pervious pavers have been incorporated on a portion of the access road to minimize damage to the trees. All grading and paving plans will have to be reviewed and approved by a certified arborist to minimize damage to existing significant trees prior to any site disturbance. A tree trimming and protection plan is also required prior to any on site grading activity.

Cultural Resources: Due to the age of the structures and the site’s proximity to the creek, all ground disturbing activities will have to be monitored by an on-site archaeologist.

Hydrology/Water Quality: The project is required to install on-site (underground) storm water retention to be installed consistent with the City’s Storm Drain Master Plan. All on site wells will also have to be a capped. The project would not result in depletion of groundwater supplies in the sub-basin because the project does not propose to install wells or other wise use groundwater beyond what is supplied by the City.

**ZONING AMENDMENT, ZA-13-07/SUBDIVISION, SD-13-08/DEVELOPMENT  
AGREEMENT, DA-13-05: WE. DUNNE-GERA**

Planning Commission Meeting September 27, 2016

Noise: The site's location adjacent to West Dunne Avenue and proximity to Monterey Road would subject the project residents to noise levels in excess of the City's 60 outdoor and 55 indoor dBA limitations. To mitigate the outdoor noise, the project will have to construct six-foot high acoustically effective barriers at any rear yard within 72 feet of the centerline of West Dunne Avenue. Short term construction noise will be mitigated through adherence to requirement in Chapter 8.28 of the Morgan Hill Municipal Code governing construction.

The project impacts and mitigations are discussed in detail within the project's initial study. Appropriate measures have been incorporated into the mitigated Negative Declaration that will reduce potential impacts to a less than significant level. A Mitigation Monitoring and Reporting Program have been prepared for the project, and it identifies the timeframe and responsibility for implementation of the mitigation measures.

Community Engagement

A ten-day notice of the public hearing was published in the September 16, 2016 edition of the Morgan Hill Times and notices were mailed to property owners within 300 feet of the application site and a sign has been posted at the proposed business location per the Planning Division requirements.

A letter dated September 17 was received from an adjoining property owner. A copy of the letter sent by the same property owner for the March 8 Planning Commission hearing has also been attached for the Commission's reference.

Conclusion

Staff recommends the Planning Commission approve the resolution approving the Mitigated Negative Declaration and Mitigation, Monitoring and Reporting Program and recommend City Council approval of the zoning amendment, the proposed precise development plan, and development agreement applications, subject to the findings and conditions of the attached resolutions. It is also recommended the Commission approve of the subdivision application contingent upon the Council approving the zoning amendment request.

**ATTACHMENTS:**

1. Zoning Compliance Table Medium Density Residential Development Standards
2. Arborist Report
3. August 23, 2016 Memo from Carey & Co.
4. Letters from adjoining property owner
5. Mitigated Negative Declaration Resolution/MMRP
6. Zoning Amendment Resolution
7. Subdivision Resolution
8. Development Agreement Resolution
9. Project plans