



CONSENT CALENDAR

Agenda Item # 3

AGENDA REPORT SUMMARY

Meeting Date: February 23, 2021

Subject: Authorize the Interim City Manager to execute the Subdivision Improvement Agreement and move to approve the Parcel Map for 831 Arroyo Road

Prepared by: Harun Musaeftendic, Assistant Engineer

Reviewed by: Jim Sandoval, Engineering Services Director

Approved by: Brad Kilger, Interim City Manager

Attachment(s):

1. Parcel Map
2. Subdivision agreement

Initiated by:

Goldsilverisland Homes, LLC

Previous Council Consideration:

February 25, 2020

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

None

Summary:

- Tentative map was approved on February 25, 2020
- Council to approve Parcel Map

Staff Recommendation:

Authorize the Interim City Manager to execute the Subdivision Improvement Agreement and move to approve the Parcel Map of 831 Arroyo Road

Interim City Manager

BK

Reviewed By:

City Attorney

JH

Deputy City Manager

JM



Subject: Authorize the Interim City Manager to execute the Subdivision Improvement Agreement and move to approve the Parcel Map for 831 Arroyo Road

Purpose

Authorize the Interim City Manager to execute the Subdivision Improvement Agreement and move to approve Parcel Map (i.e., Final Map) of 831 Arroyo Road

Background

On February 25, 2020, Council approved Tentative Map to subdivide the property into two lots for the new development at 831 Arroyo Road. The recommended action will finalize the tentative final map for the project.

A Tentative Map (AKA, Tentative Parcel Map or Tentative Tract Map) is a map showing the layout of a proposed Subdivision, including the general description of the associated infrastructure. The approved Tentative Map also sets conditions such as access, frontage, grading improvements, stormwater protection, and so forth which must be met before the final Parcel Map or Tract Map can be filed. An approved Tentative Map does not divide the property, rather it sets the conditions under which the division can occur. To actually divide the property one must file a Parcel Map or Tract Map.

The attached Parcel Map is the instrument that actually divides the property. It must conform to and incorporate all of the Tentative Map conditions and must also comply with the standards for Parcel Maps or Tract Maps as set forth in the State Subdivision Map Act. It must also include plans describing the various improvements to the project site and to all other affected properties, including public roadways and public and private utilities.

Discussion/Analysis

The Parcel Map for the development at 831 Arroyo Road conforms to the Tentative Map approved on February 25, 2020. The map and survey have been checked and found satisfactory. All conditions of approval have been complied with and appropriate controls to ensure compliance have been established. All required fees and deposits have been received. The Parcel Map is available in the Engineering Services Department office for inspection.

Options

- 1) Authorize the City Manager to execute the subdivision improvement agreement and move to approve Parcel Map

Advantages: Developer complies with the conditions of approval and can complete the building permit application



Subject: Authorize the Interim City Manager to execute the Subdivision Improvement Agreement and move to approve the Parcel Map for 831 Arroyo Road

Disadvantages: None

- 2) Do not authorize the City Manager to execute the subdivision improvement agreement and move to not approve Parcel Map

Advantages: None

Disadvantages: Developer will not be able to continue construction. Council must provide reasons for disapproval.

Recommendation

The staff recommends Option 1.

PARCEL MAP

CONSISTING OF THREE (3) SHEETS

BEING A SUBDIVISION OF LOT 60, MAP OF SUBDIVISION OF MONTEBELLO ACRES, FILED FOR RECORD IN BOOK "X" OF MAPS, AT PAGES 1, 2, & 3, SANTA CLARA COUNTY RECORDS, AND LYING ENTIRELY WITHIN THE

CITY OF LOS ALTOS
SANTA CLARA COUNTY CALIFORNIA

SEPTEMBER, 2020

RW RW ENGINEERING, INC.
505 ALTAMONT DRIVE
MILPITAS, CA 95035

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THE MAP; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; AND THAT WE HEREBY CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE; AND THAT WE HEREBY OFFER FOR DEDICATION TO PUBLIC USE ALL STREETS AND PORTIONS OF STREETS NOT PREVIOUSLY EXISTING AS SHOWN ON THE MAP WITHIN SAID SUBDIVISION, AND ALSO DEDICATE TO PUBLIC USE EASEMENTS FOR ANY AND ALL PUBLIC USES UNDER, UPON AND OVER SAID STREETS AND SAID PORTIONS THEREOF.

AS OWNERS: GOLDSILVERISLAND HOMES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: [Signature]
NAME: YING MIN LI
ITS: MANAGING MEMBER

CITY CLERK'S STATEMENT

I HEREBY STATE THAT THIS PARCEL MAP, CONSISTING OF TWO (2) SHEETS WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF LOS ALTOS, STATE OF CALIFORNIA, BY RESOLUTION NO. _____ AT A DULY AUTHORIZED MEETING OF SAID CITY COUNCIL HELD ON THE _____ DAY OF _____, 20____, AND THAT BY SAID RESOLUTION ALL STREETS AND PORTIONS THEREOF, AND ALL EASEMENTS SHOWN ON SAID MAP AND OFFERED FOR DEDICATION, WERE REJECTED ON BEHALF OF THE PUBLIC, SAVE AND EXCEPT NONE, AND TO THE LIMITED EXTENT THAT ANY OFFERS FOR EASEMENTS FOR UTILITY PURPOSES ALONG OR BENEATH SAID STREET RIGHTS-OF-WAYS, THEN AS TO SUCH EXPRESS OR IMPLIED OFFERS OF EASEMENTS FOR PUBLIC PURPOSES, THE SAME ARE ACCEPTED.

BY: _____
JON MAGINOT, CITY CLERK
CITY OF LOS ALTOS, CALIFORNIA
DEPUTY
DATE: _____

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF YINGMIN LI IN MAY, 2018. I HEREBY STATE THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN THOSE POSITIONS ON OR BEFORE MAY 1, 2021, AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY; THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN.

DATE: 9-15-20

[Signature]
ROBERT Y. WANG, LS 8931


CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE HEREON PARCEL MAP; THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, IF ANY, AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT, AS AMENDED, AND OF ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP, IF REQUIRED, HAVE BEEN COMPLIED WITH.

DATE: _____
JAMES EDWARD SANDOVAL, CITY ENGINEER
CIVIL ENGINEER NO. 55160
REGISTRATION EXPIRES 06-30-2020



CITY LAND SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE HEREON PARCEL MAP AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

DATE: 9-16-20
[Signature]
MARK A. HELTON, LS 7078
CITY OF LOS ALTOS, CALIFORNIA
LICENSE EXPIRES 12-31-2020



RECORDER'S STATEMENT

FILE NO. _____ FEE \$ _____ PAID.
ACCEPTED FOR RECORD AND FILED THIS _____ DAY OF _____, 2020, AT _____ M.
IN BOOK _____ OF MAPS, AT PAGE(S) _____, SANTA CLARA COUNTY RECORDS, AT THE REQUEST OF OLD REPUBLIC TITLE COMPANY.

REGINA ALCOMENDRAS, COUNTY RECORDER
SANTA CLARA COUNTY, CALIFORNIA

BY: _____
DEPUTY

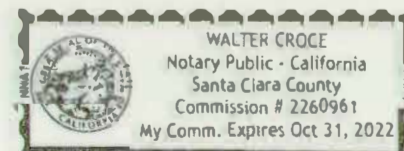
OWNERS' ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) SS.
ON SEP 15, 2020, BEFORE ME, WALTER CROCE, A NOTARY PUBLIC,
PERSONALLY APPEARED YING MIN LI
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND
NOTARY'S SIGNATURE [Signature]



PRINTED NOTARY'S NAME WALTER CROCE, Notary Public
NOTARY'S PRINCIPAL PLACE OF BUSINESS 1821 S Bascom Ave, Campbell CA 95008
NOTARY'S COMMISSION NUMBER 2260961
EXPIRATION OF NOTARY'S COMMISSION Oct 31, 2022

SOILS AND GEOLOGIC REPORT STATEMENT

A SOIL REPORT AND/OR GEOLOGICAL REPORT ON THIS PROPERTY HAS BEEN PREPARED BY CAPEX ENGINEERING INC., PROJECT NO. 11226, DATED JANUARY 15, 2019, A COPY OF WHICH HAS BEEN FILED WITH THE CITY OF LOS ALTOS.

BASIS OF BEARINGS

THE BEARING SOUTH 89°30'00" EAST OF THE CENTERLINE OF ARROYO ROAD AS SHOWN ON THAT MAP FILED FOR RECORD IN BOOK "X" OF MAPS AT PAGES 1-3, SANTA CLARA COUNTY RECORDS, WAS TAKEN AS THE BASIS OF BEARINGS SHOWN UPON THIS MAP.

REFERENCES

- (R1) MAP OF SUBD. OF MOTEHELLO ACRES ("X" M 1-3)
- (R2) ROS (772 M 54)
- (R3) PARCEL MAP (499 M 3)

PARCEL MAP

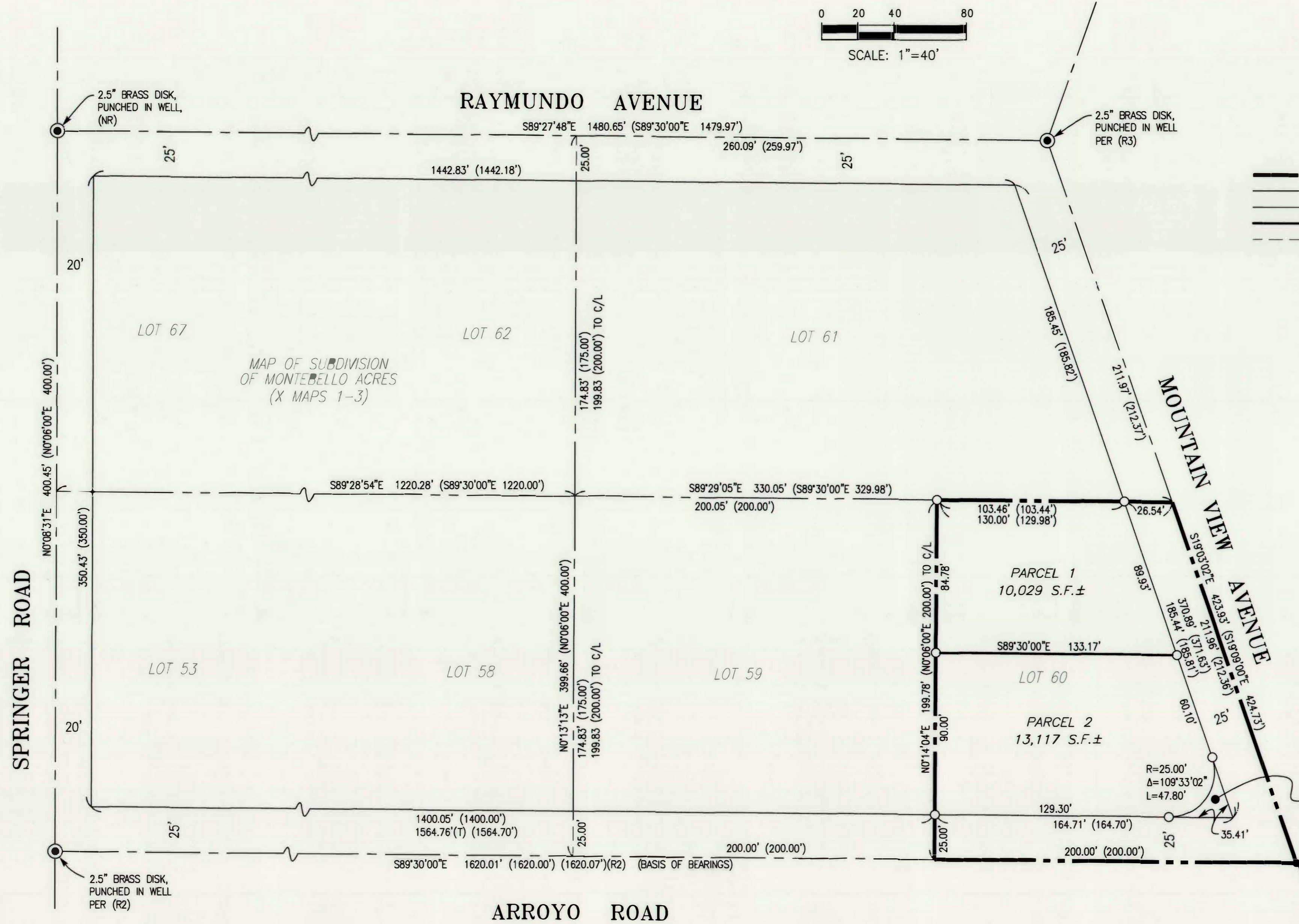
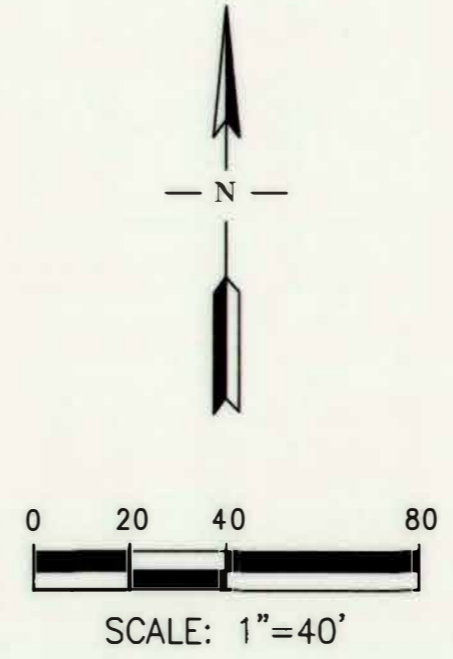
CONSISTING OF THREE (3) SHEETS

BEING A SUBDIVISION OF LOT 60, MAP OF SUBDIVISION OF MONTEBELLO ACRES, FILED FOR RECORD IN BOOK "X" OF MAPS, AT PAGES 1, 2, & 3, SANTA CLARA COUNTY RECORDS, AND LYING ENTIRELY WITHIN THE

CITY OF LOS ALTOS
SANTA CLARA COUNTY CALIFORNIA

SEPTEMBER, 2020

RW RW ENGINEERING, INC.
505 ALTAMONT DRIVE
MILPITAS, CA 95035



LEGEND

- DISTINCTIVE BORDER AND BOUNDARY
- ADJACENT PROPERTY LINE
- CENTERLINE OR MONUMENT LINE
- NEW PARCEL LINE
- TIE LINE
- SET 3/4" IRON PIPE WITH PLASTIC PLUG & TACK, TAGGED LS 8931
- MONUMENT FOUND AS NOTED
- IRON PIPE FOUND AS NOTED
- RECORD DATA PER (R1) UNLESS OTHERWISE NOTED
- TOTAL
- (NR) NO RECORD
- C/L CENTERLINE

NOTES

1. ALL DISTANCES AND DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.
2. THE AREA WITHIN THE DISTINCTIVE BORDER IS 0.757 ACRE, MORE OR LESS.
3. THE DISTINCTIVE BORDER LINE DENOTES THE BOUNDARY OF THE SUBDIVISION.

CORNER LOT DEVELOPMENT REQUIREMENTS:

- THE NEWLY CREATED LOT (PARCEL 2) SHALL ADHERE TO THE FOLLOWING REQUIREMENTS:
1. THE NEW HOUSE SHALL HAVE A FRONT ELEVATION THAT FACES ARROYO ROAD.
 2. THE NEW HOUSE SHALL HAVE A SETBACK OF AT LEAST 25 FEET FROM THE EXTERIOR SIDE PROPERTY LINE ADJACENT TO ARROYO ROAD.
 3. THE DRIVEWAY FOR THE NEW HOUSE, IF PLACED ALONG MOUNTAIN VIEW AVENUE, SHALL HAVE A SETBACK OF AT LEAST 25 FEET FROM THE EDGE OF THE 25-FOOT RADIUS CORNER AT THE INTERSECTION WITH ARROYO ROAD.
 4. THE 30-FOOT VISIBILITY TRIANGLE AT THE CORNER OF MOUNTAIN VIEW AVENUE AND ARROYO ROAD SHALL BE MAINTAINED FREE AND CLEAR OF ALL LANDSCAPING AND BUILT OBJECTS THAT EXCEED THREE FEET IN HEIGHT.

STREET DEDICATION TO THE CITY OF LOS ALTOS (AREA=288 S.F.±)

3/4" IRON PIPE WITH NAIL IN AC PAVEMENT PER (R1)(R2)

PARCEL MAP

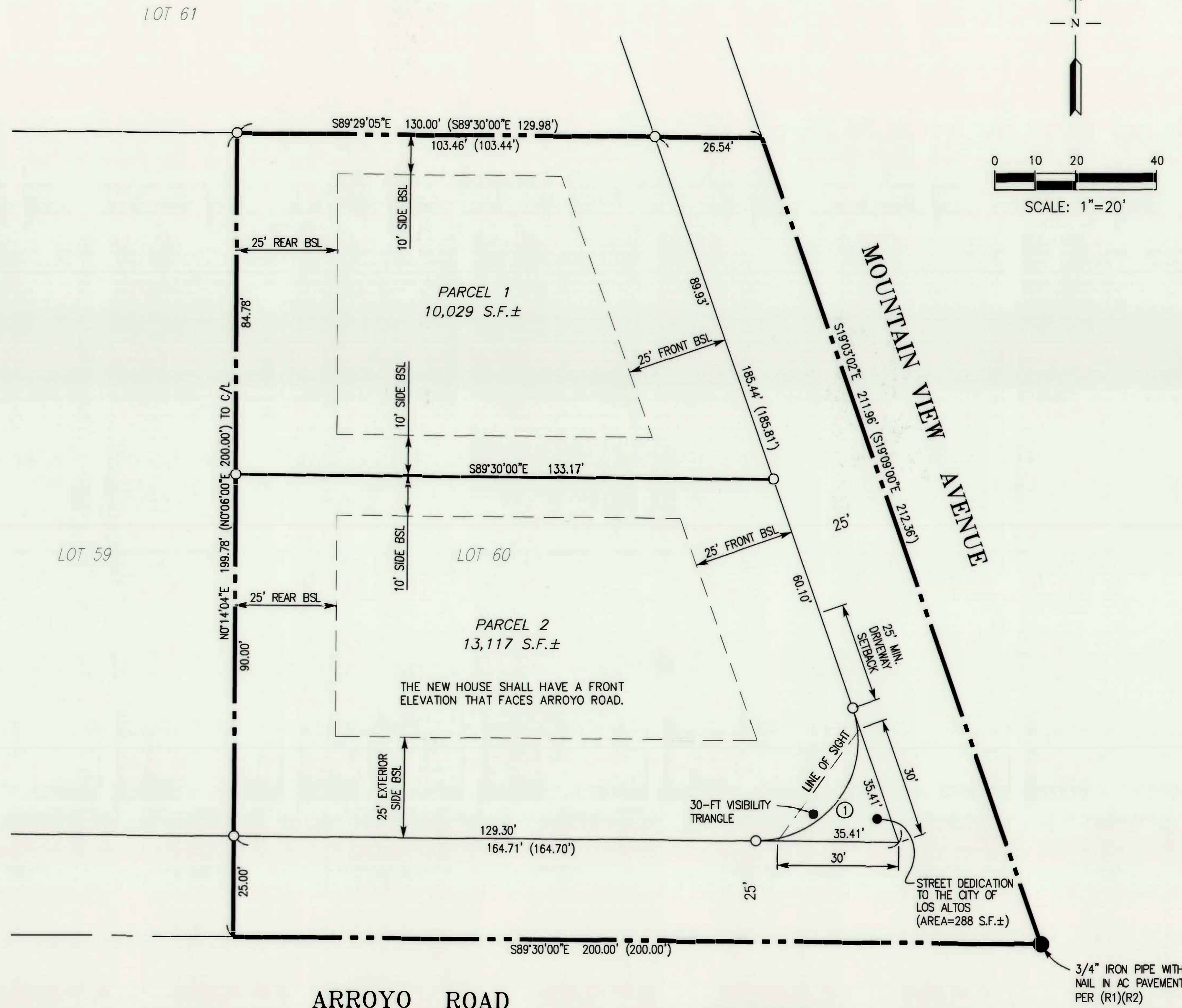
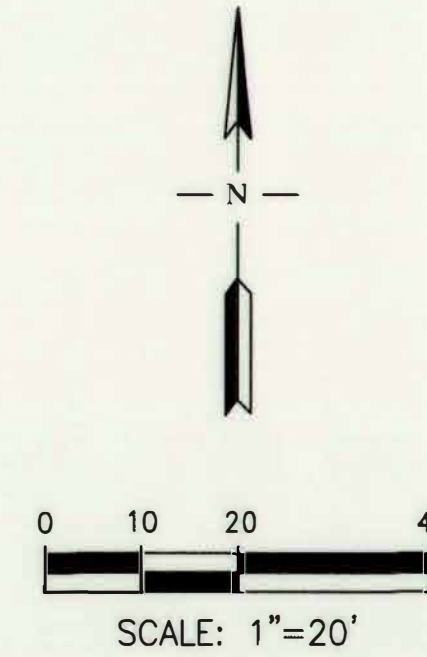
CONSISTING OF THREE (3) SHEETS

NON-TITLE INFORMATION

CITY OF LOS ALTOS
SANTA CLARA COUNTY CALIFORNIA

SEPTEMBER, 2020

RW RW ENGINEERING, INC.
505 ALTAMONT DRIVE
MILPITAS, CA 95035



LEGEND

- DISTINCTIVE BORDER AND BOUNDARY
- ADJACENT PROPERTY LINE
- CENTERLINE OR MONUMENT LINE
- NEW PARCEL LINE
- BUILDING SETBACK LINE (BSL)
- SET 3/4" IRON PIPE WITH PLASTIC PLUG & TACK, TAGGED LS 8931
- MONUMENT FOUND AS NOTED
- IRON PIPE FOUND AS NOTED
- RECORD DATA PER (R1) UNLESS OTHERWISE NOTED
- TOTAL
- (NR) NO RECORD
- C/L CENTERLINE

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CURVE DATA

NO.	DELTA	RADIUS	LENGTH
①	109°33'02"	25.00'	47.80'

RECORDING REQUESTED BY:

City of Los Altos

WHEN RECORDED, MAIL TO:

City Clerk, City of Los Altos

1 North San Antonio Road

Los Altos, CA 94022

RECORD WITHOUT FEE UNDER
§§ 27383 & 27388.1 GOVERNMENT CODE

Improvement Agreement No. 2021-XX
PROJECT TITLE – Parcel 831 Arroyo Rd
APN: 184-29-020
Goldsilverisland Homes, LLC

**IMPROVEMENT AGREEMENT
831 Arroyo Road**

This Improvement Agreement (this “Agreement”) is made and entered into by and between the CITY OF Los Altos, a municipal corporation (hereinafter "City"), and Goldsilverisland Homes LLC (hereinafter "Developer"). City and Developer may be collectively referred to herein as the “parties.”

RECITALS

- A. In accordance with the Subdivision Map Act (California Government Code Sections 66410, *et seq.*), and the Subdivision Ordinance (Los Altos Municipal Code, Title 13), and the Street Ordinance (Los Altos Municipal Code, Title 9), the Developer has submitted to the City a Parcel Map (hereinafter “Parcel Map”) for the project known as 831 Arroyo Road (hereinafter “Project”).
- B. The Project is geographically located within the boundaries of the Tentative Subdivision Map known as 831 Arroyo Road Tentative Map (hereinafter “Tentative Map”). The Tentative Map is on file with the City Engineer and is incorporated herein by reference. The area within the boundaries of the Tentative Map is described in **Exhibit A** hereto (the “Property”).
- C. The City’s approval of the Tentative Map was subject to specified conditions of approval (hereinafter “Conditions”). The Conditions are attached hereto as **Exhibit B** and incorporated herein by reference.
- D. As required by the Conditions, the Tentative and Final Maps, and the other Project entitlements, Developer shall construct public improvements in connection with the Project along Arroyo Road and Mountain View Avenue, including but not limited to the following: removal and replacement of concrete curb and gutter and rolled curb along the entire frontage on Arroyo Road and Mountain View Avenue, and installation of all appurtenances associated with above listed improvements (collectively, the “Work”).

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

- 1. **SCOPE OF WORK.** The Developer shall perform, or cause to be performed, the Work described in the Plans and Specifications and the Conditions (hereinafter “Work”), to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Developer’s sole cost and expense. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer.
- 2. **PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Developer shall, at the Developer’s expense, obtain and maintain all necessary permits and licenses for the performance of the Work. The Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement. *WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DEVELOPER HEREBY AGREES TO BE BOUND BY THE LABOR CODE PROVISIONS ATTACHED HERETO AT **EXHIBIT C**.*
- 3. **DEVELOPER’S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreperson or superintendent (hereinafter “Authorized Representative”) on site with authority to act on behalf of the Developer. The Developer shall, at all times, keep the City Engineer informed in writing of the name and

CITY OF LOS ALTOS – IMPROVEMENT AGREEMENT
831 Arroyo Road

telephone number of the Authorized Representative. The Developer shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.

4. **IMPROVEMENT SECURITY.** The Developer shall furnish faithful performance and labor and material security concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work. The Developer shall furnish warranty security prior to the City's acceptance of the Work. The form of the security shall be as authorized by the Subdivision Map Act (including Government Code Sections 66499, *et seq.*) and Section 13.20.210 the Los Altos Municipal Code, and as set forth below:
 - 4(a). **Faithful Performance** security in the amount of \$64,380.00 (which amount is equal to the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.
 - 4(b). **Labor and Material** security in the amount of \$32,190.00 (which amount is equal to fifty (50) percent of the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure payment by the Developer to laborers and materialmen pursuant to Government Code Sections 66499.2, 66499.3, and 66499.4.
 - 4(c). **Warranty** security in the amount of \$6,438.00 (which amount is equal to ten (10) percent of the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure faithful performance of this Agreement (from the date on which the City accepts the Work as complete until one year thereafter) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.
5. **BUSINESS TAX.** The Developer shall apply for and pay the business license tax for a business license, in accordance with Los Altos Municipal Code Chapter 4.04.
6. **INSURANCE.** Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer (including its agents, representatives, contractors, subcontractors, and employees) in connection with the performance of services under this Agreement. **Exhibit D** of this Agreement identifies the minimum insurance levels with which Developer shall comply; however, the minimum insurance levels shall not relieve Developer of any other performance responsibilities under this Agreement (including the indemnity requirements), and Developer may carry, at its own expense, any additional insurance it deems necessary or prudent. The general liability and automobile policies required under **Exhibit D** shall contain, or be endorsed to contain, provision for the City, its officers, officials, employees, agents and volunteers, to be covered as additional insureds as respects alleged liability arising out of activities performed by or on behalf of the Developer under this Agreement. Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any services, the Developer shall furnish written proof of insurance (certificates and endorsements), in a form acceptable to the City. Developer shall provide substitute written proof of insurance no later than 30 days prior to the expiration date of any insurance policy required by this Agreement.
7. **REPORTING DAMAGES.** If any damage (including death, personal injury or property damage) occurs in connection with the performance of this Agreement, Developer shall immediately notify the City Risk Manager's office by telephone at, and Developer shall promptly submit to the City's Risk Manager and the City Manager or designee, a written report (in a form acceptable to the City) with the following information: (a) a detailed description of the damage (including the name and address

CITY OF LOS ALTOS – IMPROVEMENT AGREEMENT
831 Arroyo Road

of the injured or deceased person(s), and a description of the damaged property), (b) name and address of witnesses, and (c) name and address of any potential insurance companies.

8. **INDEMNIFICATION.** Developer shall indemnify, hold harmless, and defend (with counsel reasonably acceptable to the City) the City and its elected officials, officers, agents and employees from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorneys’ fees) resulting or arising from performance, or failure to perform, under this Agreement (with the exception of the gross negligence or willful misconduct of the City).
9. **TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.

9(a). Commencement of Work. No later than fifteen (15) days prior to the commencement of Work, the Developer shall provide written notice to the City Engineer of the date on which the Developer shall commence Work. The Developer shall not commence Work until after the notice required by this section is properly provided, and the Developer shall not commence Work prior to the date specified in the written notice.

9(b). Schedule of Work. Concurrently with the written notice of commencement of Work, the Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer’s prosecution of the Work.

9(c). Completion of Work. The Developer shall complete all Work by no later than three hundred sixty-five (365) days after the City’s execution of this Agreement.

10. **INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation. Developer shall reimburse the City for the costs of the City Engineer’s inspections of the Work, as required by Los Altos Municipal Code Section 13.20.190.

11. **DEFAULT.** If either party (“demanding party”) has a good faith belief that the other party (“defaulting party”) is not complying with the terms of this Agreement, the demanding party shall give written notice of the default (with reasonable specificity) to the defaulting party, and demand the default to be cured within ten days of the notice. If: (a) the defaulting party fails to cure the default within ten (10) days of the notice, or, (b) if more than ten (10) days are reasonably required to cure the default and the defaulting party fails to give adequate written assurance of due performance within ten (10) days of the notice, then (c) the demanding party may terminate this Agreement upon written notice to the defaulting party.

11(a). The Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

11(a)(1). The Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

11(a)(2). The Developer abandons the Project site.

11(a)(3). The Developer fails to perform one or more requirements of this Agreement.

CITY OF LOS ALTOS – IMPROVEMENT AGREEMENT
831 Arroyo Road

11(a)(4). The Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.

11(a)(5). The Developer violates any legal requirement related to the Work.

11(b). In the event that the Developer fails to cure the default, the City may, in the discretion of the City Engineer, take any or all of the following actions:

11(b)(1). Cure the default and charge the Developer for the costs therefor, including administrative costs and interest in an amount equal to seven percent (7%) per annum from the date of default.

11(b)(2). Demand the Developer to complete performance of the Work.

11(b)(3). Demand the Developer's surety (if any) to complete performance of the Work.

12. ACCEPTANCE OF WORK. Prior to acceptance of the Work by the City Engineer, the Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Project site. Neither the final certificate of payment, nor any provision in this Agreement, nor partial or entire use or occupancy of the improvements by the City shall constitute an acceptance of the Work not done in accordance with this Agreement or relieve Developer of liability pursuant to Section 13, below. The Developer's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, the City Engineer has accepted the Work as complete, and the City Council has authorized the release of the security for faithful performance as described in Government Code Section 66499.7.

13. WARRANTY PERIOD. The Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Developer under this Agreement, the Developer shall be in default.

14. RELATIONSHIP BETWEEN THE PARTIES. Developer is, and at all times shall remain, an independent contractor solely responsible for all acts of its employees, agents, contractors, or subcontractors, including any negligent acts or omissions. Developer is not City's agent, and shall have no authority to act on behalf of the City, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.

15. CONFLICTS OF INTEREST PROHIBITED. Developer (including its employees, agents, contractors, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Developer maintains or acquires a conflicting interest, any contract with the City (including this Agreement) involving Developer's conflicting interest may be terminated by the City.

16. NONDISCRIMINATION. Developer shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Agreement. Developer shall not discriminate against any employee or applicant because of race, color, ancestry, ethnicity, religious creed, national origin, physical disability, mental disability, medical condition, marital or family status, sexual orientation, gender or gender identification, age (over 40), veteran status, or sex.

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831 Arroyo Road**

17. **NOTICES.** All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt (or refusal) by a party, or (b) actual receipt (or refusal) at the address designated below, or (c) three (3) working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. Either party may modify their respective contact information identified in this section by providing notice to the other party.

TO: City

Attn: Andrea Chelemengos
1 N. San Antonio Road
Los Altos, CA 94022

To: Developer

Attn: Ying Min Li
Goldsilverisland Homes LLC
577 Salmar Avenue Ste 107
Campbell, CA 95008

18. **HEADINGS.** The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.
19. **SEVERABILITY.** If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.
20. **GOVERNING LAW, JURISDICTION, AND VENUE.** The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Santa Clara.
21. **ATTORNEYS' FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
22. **ASSIGNMENT AND DELEGATION.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of the Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force or effect. A consent by the City to one assignment shall not be deemed to be a consent to any subsequent assignment.
23. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
24. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
25. **CONFLICTS.** If any conflicts arise between the terms and conditions of this Agreement and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Agreement shall control.

CITY OF LOS ALTOS – IMPROVEMENT AGREEMENT
831 Arroyo Road

26. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the Work described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.
27. **COVENANT RUNNING WITH THE LAND.** This Agreement is entered into as a condition of the Tentative Map, is an instrument affecting the title or possession of the real property, and is intended to run with the land. All the terms, covenants and conditions herein imposed shall be binding upon and inure to the benefit of City, Developer, the successors in interest of Developer, their respective successors and permitted assigns, and all subsequent owners of a fee interest in the Property or of a beneficial interest substantially equivalent to a fee interest. The obligations of the Developer under this Agreement shall be the joint and several obligations of each and all of the parties comprising Developer, if Developer consists of more than one individual and/or entity. Upon the sale or division of the Property, the terms of this Agreement shall apply separately to each parcel and the fee owners of each parcel shall succeed to the obligations imposed on Developer by this Agreement.
28. **MISCELLANEOUS.** This Agreement may be executed in counterparts, each of which shall be deemed an original. There are no third-party intended beneficiaries of this Agreement. This Agreement represents the contributions of both parties, each of whom has had the opportunity to be represented by competent counsel, and the rule stated in Civil Code Section 1654 that ambiguities in a contract be construed against the drafter shall have no application hereto.
29. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Developer and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the City and Developer do hereby agree to the full performance of the terms set forth herein.

CITY OF LOS ALTOS

LIMITED LIABILITY COMPANY
Goldsilverisland Homes, LLC,
a California Limited Liability Company

By: _____
Brad Kilger
Title: Interim City Manager
Date: _____

By: _____
Ying Min Li
Title: Managing Member
Date: _____

APPROVED AS TO FORM:

By: _____
Jolie Houston
Title: City Attorney

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT A

The land referred to is situated in the County of Santa Clara, City of Los Altos, State of California, and is described as follows:

Lot 60, as shown upon that certain Map entitled, "Map of the Subdivision of Montebello Acres", which Map was filed for Record in the Office of the Recorder of the County of Santa Clara, State of California, on May 4, 1928, in Book X of Maps, at Pages 1, 2 and 3.

APN: 189-29-020

EXHIBIT B**CONDITIONS OF APPROVAL****CONDITIONS****GENERAL****1. Approved Plans**

Project approval is based upon the tentative map dated February 12, 2020, except as may be modified by these conditions.

2. Corner Lot Requirements

The newly created corner lot (Parcel 2) shall adhere to the following requirements:

- a. The new house shall have a front elevation that faces Arroyo Road.
- b. The new house shall have a setback of at least 25 feet from the exterior side property line adjacent to Arroyo Road.
- c. The driveway for the new house, if placed along Mountain View Avenue, shall have a setback of at least 25 feet from the from the edge of the 25-foot radius corner at the intersection with Arroyo Road.
- d. The 30-foot visibility triangle at the corner of Mountain View Avenue and Arroyo Road shall be maintained free and clear of all landscaping and built objects that exceed three feet in height.

3. Public Utilities

The developer shall contact electric, gas, communication and water utility companies regarding the installation of new utility services to the site.

4. Protected Trees

All existing trees on the site are protected as shown on the submitted plans and shall not be removed unless approved by the City during any subsequent development review or tree removal permit application.

5. Encroachment Permit

An encroachment permit, and/or an excavation permit shall be obtained prior to any work done within the public right-of-way and it shall be in accordance with plans to be approved by the City Engineer.

6. Stormwater Management Plan

The project shall comply with the City of Los Altos Municipal Regional Stormwater (MRP) NPDES Permit No. CA S612008, Order No. R2-2015-0049 dated November 19, 2015. The improvement plan shall include the "Blueprint for a Clean Bay" plan sheet as page 2 in all plan submittals.

7. Sewer Lateral

Any proposed sewer lateral connection shall be approved by the City Engineer.

8. Indemnity and Hold Harmless

The applicant/owner agrees to indemnify, defend, protect, and hold the City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of the City in connection with the City's defense of its actions in any proceedings brought in any State or Federal Court, challenging any of the City's action with respect to the applicant's project.

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PRIOR TO MAP RECORDATION

9. Demolition

The applicant shall obtain and final a demolition permit from the Building Division to remove all existing structures on the property.

10. Payment of Fees

The applicant shall pay all applicable fees, including but not limited to sanitary sewer impact fees, parkland dedication in-lieu fees, traffic impact fees and map check fee plus deposit as required by the City of Los Altos Municipal Code.

11. Easement Dedication

The applicant shall dedicate public utility easements as required by the utility companies to serve both parcels.

12. Right-of-Way Dedication

The applicant shall dedicate an area of land having a 25-foot radius adjacent to the intersection at Arroyo Road and Mountain View Avenue to the public right-of-way.

PRIOR TO ISSUANCE OF A BUILDING PERMIT

13. Map Recordation

The applicant shall record the tentative map.

14. Construction Management Plan

Detailed plans for any construction activities affecting the public right-of-way include but are not limited to excavations, pedestrian protection, material storage, earth retention, and construction vehicle parking, and shall be provided to the City Engineer for review and approval. The applicant shall also submit on-site, and off-site grading and drainage plans that include drain swales, drain inlets, rough pad elevations, building envelopes, and grading elevations for approval by City staff.

15. Routing and Staging Plan

A truck routing and staging plan for the proposed excavation of the site shall be submitted for review and approval by the City Engineer. A Transportation Permit, per the requirements in California Vehicle Code Division 15, is required before any large equipment, materials or soil is transported or hauled to or from the site.

16. Utility Plan

The applicant shall submit a utility plan which includes the location of the sanitary sewer laterals for each lot.

17. Stormwater Pollution Prevention

The project shall comply with the Stormwater Pollution Prevention Measures per Chapter 10.16 of the Los Altos Municipal Code.

PRIOR TO OCCUPANCY

18. Curb and Gutter Replacement

The applicant shall remove and replace the concrete curb/gutter along the entire frontage per the City Engineer's instructions

19. Underground Utilities

The applicant shall be responsible for the removal/undergrounding of the existing overhead utilities.

EXHIBIT C

LABOR CODE PROVISIONS

1. This Agreement is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance.
2. The Work is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
3. Developer shall not enter into a contract with a contractor for the performance of the Work unless the contractor and its subcontractors are registered with the California Department of Industrial Relations to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.

EXHIBIT D**INSURANCE REQUIREMENTS**

Developer's performance of Work under this agreement shall not commence until Developer shall have obtained all insurance required under this Exhibit and such insurance shall have been reviewed and approved by the Risk Manager. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

Developer shall procure and maintain for the duration of the contract all necessary insurance against claims now and in the future for alleged injuries to persons or damages to property which may arise from or in connection with the performance of the Work by the Developer, the Contractor it's agents, representatives, employees and contractors.

INSURANCE COVERAGE AND LIMITS RESTRICTIONS

1. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage:
 - a. Blanket contractual liability
 - b. Broad form property coverage
 - c. Personal injury
2. Insurance Services Office form covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.
4. Such other insurance coverages and limits as may be required by the City.

B. MINIMUM LIMITS OF INSURANCE

Developer shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage and a \$2,000,000 aggregate. If Commercial General Liability insurance or other form with a general aggregate liability is used, either the general aggregate limit shall apply separately to this agreement or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability:
 - Bodily Injury by Accident - \$1,000,000 each accident.
 - Bodily Injury by Disease - \$1,000,000 policy limit.
 - Bodily Injury by Disease - \$1,000,000 each employee.

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4. Such other insurance coverages and limits as may be required by the City of.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

1. Any deductibles or self-insured retentions must be declared to and approved by the City of. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City of ****CITY****, its officers, officials, employees, and volunteers; or the Developer shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.
2. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.
3. The City reserves the right to obtain a full certified copy of any insurance policy and endorsement. Failure to exercise this right shall not constitute a waiver of right to exercise later.

D. ADDITIONAL INSURED REQUIREMENTS:

The required general liability and automobile policies are to contain, or be endorsed to contain the following provisions:

- a. The City, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects alleged: liability arising out of activities performed by or on behalf of the Developer; products and completed operations of the Developer; premises owned, occupied or used by the Developer; or automobiles owned, leased, hired or borrowed by the Developer. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.
- b. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
- c. The Developer's insurance shall apply separately to each insured against whom claim is made or suit is brought except, with respect to the limits of the insurer's liability.
- d. Developer shall furnish properly executed Certificates of Insurance from insurance companies acceptable to the City and signed copies of the specified endorsements for each policy prior to commencement of work under this agreement. Such documentation shall clearly evidence all coverages required above including specific evidence of separate endorsements naming the City and shall provide that such insurance shall not be materially changed, terminated or allowed to expire except after 30 days prior written notice by certified mail, return receipt requested, has been filed with the City Clerk.
Such insurance shall be maintained from the time work first commences until completion of the work under this agreement. Developer shall replace such certificates for policies expiring prior to completion of work under this agreement.

E. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

F. COMPLETED OPERATIONS

Developer shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event the Developer fails to obtain or maintain completed operations coverage as required by this agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by the Developer.

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G. CROSS-LIABILITY

The Liability policy shall include a cross-liability or severability of interest endorsement.

H. FAILURE TO MAINTAIN INSURANCE COVERAGE

If Developer, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. The City, at its sole option, may terminate this agreement and obtain damages from the Developer resulting from said breach. Alternatively, the City may purchase such required insurance coverage, and Developer shall reimburse the City for any premium costs advanced by the City for such insurance.

I. PRIMARY AND NON-CONTRIBUTORY

For any claims related to this project, the Developer’s insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Developer’s insurance and shall not contribute with it.

The additional insured coverage under the Developer’s policy shall be primary and non-contributory” and will not seek contribution from the City’s insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

J. SUBCONTRACTORS

Developer shall require its contractors to maintain the same levels of insurance and provide the same indemnity that the Developer is required to provide under this Agreement. A contractor is anyone who is under contract with the Developer or any of its contractors to perform work contemplated by this Agreement. The Developer shall require all contractors to provide evidence of valid insurance and the required endorsements prior to the commencement of any work.

K. SUBROGATION WAIVER

Developer agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all Contractors, subcontractors or others involved in any way with the services to do likewise.

L. VERIFICATION OF COVERAGE

Developer shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before the services commence.