



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

Patricia Toombs - Planning Commissioner

Yvonne Martinez Beltran - Planning Commissioner

Tuesday, March 28, 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 (AAE2017-0007) MONTEREY-DYNASTY: DEVELOPMENT AGREEMENT AMENDMENT TO ADD TWO FISCAL YEAR 2018-2019 BUILDING ALLOTMENTS TO THE 131 UNIT PROJECT. THE PROPERTIES, IDENTIFIED BY ASSESSOR PARCEL NUMBERS 767-54-001 THRU -009 AND 767-54-0012 THRU -037, ARE LOCATED ON ROME AVENUE EAST OF MONTEREY ROAD (DIAMOND CREEK VILLAS LLC, OWNER).**

Recommendation:

Open public hearing and continue to the April 11, 2017 Planning Commission meeting.

PUBLIC HEARING

2. **DEVELOPMENT AGREEMENT, DA2017-0002: BUTTERFIELD-MWEST: REQUEST FOR AN INDUSTRIAL DEVELOPMENT AGREEMENT FOR APPROXIMATELY 39 ACRES IN THE MORGAN HILL RANCH BUSINESS PARK. THE PROPERTIES, IDENTIFIED BY ASSESSOR'S PARCEL NUMBERS 726-25-046, -047, -059, -066, -067, -070, -073, -078 AND -079 ARE LOCATED ON THE WEST SIDE OF BUTTERFIELD BOULEVARD BETWEEN JARVIS DRIVE AND DIGITAL DRIVE (DIVCO WEST SVI, OWNER). CEQA: CERTIFIED EIR FOR THE MORGAN HILL RANCH BUSINESS PARK.**

Recommendation:

Open public hearing and continue to a future Planning Commission meeting. Project will be re-noticed.

3. **DEVELOPMENT AGREEMENT AMENDMENT, AAE2017-0010 /TENTATIVE SUBDIVISION MAP AMENDMENT, AAE2016-0007: REQUEST FOR A DEVELOPMENT AGREEMENT AMENDMENT TO ADD FOUR FISCAL YEAR 2018-2019 BUILDING ALLOTMENTS AND A TENTATIVE SUBDIVISION MAP AMENDMENT FOR THE DEVELOPMENT OF NINE SINGLE FAMILY RESIDENCES ON A 2.17 ACRE SITE. THE PROPERTIES, IDENTIFIED BY ASSESSOR PARCEL NUMBER(S) 726-07-089, 726-07-023 AND 726-07-024, ARE LOCATED ON THE EAST SIDE OF WALNUT GROVE DRIVE, SOUTH OF DIANA AVENUE (NEWLAND HOMES, TIMOTHY HEALEY, DIANA ESTATES, OWNERS). CEQA: MITIGATED NEGATIVE DECLARATION ADOPTED.**

Recommendation:

1. DAA-16-01: Recommend City Council approve Amended Development Agreement.
2. SDA-16-02: Recommend Planning Commission approval of the Subdivision Amendment.

CONTINUED PUBLIC HEARING

4. **SITE REVIEW, SR2017-0004: DEPOT – SUNSWEET MORGAN HILL LLC: REQUEST FOR A SITE, ARCHITECTURE AND LANDSCAPE PLAN APPROVAL FOR A MIXED-USE PROJECT CONSISTING OF 83 RESIDENTIAL UNITS AND 8,051 SQUARE FEET OF COMMERCIAL SPACE LOCATED ON THE WEST SIDE OF DEPOT STREET BETWEEN EAST THIRD STREET AND EAST FOURTH STREET BUILDERS. OWNER).**

Recommendation:

Recommend Planning Commission recommend City Council approval of SR 2017-0004:Depot-Sunsweet.

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.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: March 28, 2017

PREPARED BY: Steve Golden, Associate Planner

APPROVED BY: Jennifer Carman, Community Development Director

**DEVELOPMENT AGREEMENT AMENDMENT (AAE2017-0007)
MONTEREY-DYNASTY: DEVELOPMENT AGREEMENT AMENDMENT
TO ADD TWO FISCAL YEAR 2018-2019 BUILDING ALLOTMENTS TO
THE 131 UNIT PROJECT. THE PROPERTIES, IDENTIFIED BY
ASSESSOR PARCEL NUMBERS 767-54-001 THRU -009 AND 767-54-
0012 THRU -037, ARE LOCATED ON ROME AVENUE EAST OF
MONTEREY ROAD (DIAMOND CREEK VILLAS LLC, OWNER).**

RECOMMENDATION(S)

Open public hearing and continue to the April 11, 2017 Planning Commission meeting.

LOCATION MAP:



PROJECT SUMMARY:

Location: The Diamond Creek project is located on Rome Avenue, west of Monterey Road
 Site Area: ±7.15 acres (total project area)
 General Plan: Residential Attached Medium
 Zoning: R3 (PD)
 Request: Request for a Development Agreement Amendment to add two Fiscal Year 2018-2019 building allotments.

BACKGROUND:

The developer competed during the 2016 RDCS competition (RDCS2016-0010) and was awarded two Fiscal Year 2018-2019 allotments. These allotments represent the final allotments to complete the project. The developer requests approval of the development agreement amendment to incorporate these allotments and the associated commitments.

The request for a development agreement amendment was discussed at the March 14,

2017 Planning Commission meeting. At that meeting, the developer additionally requested the ability to occupy the two Fiscal Year 2018-2019 units prior to the start of the fiscal year (July 1, 2018). Pursuant to Council Policy 06-01, projects awarded building allotments may start construction earlier than the fiscal year awarded in as long as the units are not completed and occupied until after the start of the fiscal year in which the allocations must be used.

The item was continued to the March 28, 2017 Planning Commission meeting, however, staff needs additional time to analyze the request, receive input from the City Attorney, and provide a recommendation to the Planning Commission; therefore, it is recommended the Planning Commission open the public hearing and continue the project to the April 11, 2017 Planning Commission meeting.

CEQA (California Environmental Quality Act):

A Mitigated Negative Declaration was previously adopted for the project on December 11, 2012.

LINKS/ATTACHMENTS:



PLANNING COMMISSION STAFF REPORT

MEETING DATE: March 28, 2017

PREPARED BY: Jennifer Carman, Community Development Director
APPROVED BY: Jennifer Carman, Community Development Director

DEVELOPMENT AGREEMENT, DA2017-0002: BUTTERFIELD-MWEST: REQUEST FOR AN INDUSTRIAL DEVELOPMENT AGREEMENT FOR APPROXIMATELY 39 ACRES IN THE MORGAN HILL RANCH BUSINESS PARK. THE PROPERTIES, IDENTIFIED BY ASSESSOR'S PARCEL NUMBERS 726-25-046, -047, -059, -066, -067, -070, -073, -078 AND -079 ARE LOCATED ON THE WEST SIDE OF BUTTERFIELD BOULEVARD BETWEEN JARVIS DRIVE AND DIGITAL DRIVE (DIVCO WEST SVI, OWNER). CEQA: CERTIFIED EIR FOR THE MORGAN HILL RANCH BUSINESS PARK.

RECOMMENDATION(S)

Open public hearing and continue to a future Planning Commission meeting. Project will be re-noticed.

LOCATION MAP:



Location: West side of Butterfield Boulevard between Jarvis Drive and Digital Drive.
Site Area: 39 acres
General Plan: Industrial
Zoning: Industrial/Planned Unit Development
Request: Development Agreement for development of 39 acres of industrial property located within the Morgan Hill Ranch Business Park.

BACKGROUND:

DivcoWest SVI, the property owner, is proposing a Development Agreement for the Butterfield Technology Center Project consisting of up to 600,000 gross square feet of new industrial development, public park, landscaping, parking, streets and infrastructure. The Developer also owns the 19.5-acres contiguous to the industrial property. A separate, but concurrent, application for a multi-family residential development on the residential property is being processed through the Residential Development Control System (RDCS). The residential project will be subject to a separate Development Agreement through the RDCS. Because of the importance of diverse housing, especially multi-family apartments near the City's core job center, to the Developer's ability to effectively market the Property, the Developer has proposed timing of certain obligations under this Agreement.

Although the project was scheduled for the March 28, 2017 Planning Commission meeting, negotiations are still underway and the Development Agreement is not complete and ready for Planning Commission consideration. Public hearing notices were published and mailed to the community; therefore, it is recommended the Planning Commission open the public hearing and continue the project. Public hearing notices will be published and mailed for a future meeting date to be determined.

LINKS/ATTACHMENTS:



PLANNING COMMISSION STAFF REPORT

MEETING DATE: March 28, 2017

PREPARED BY: Rich Buikema, Contract Planner

APPROVED BY: Jennifer Carman, Community Development Director

DEVELOPMENT AGREEMENT AMENDMENT, AAE2017-0010 /TENTATIVE SUBDIVISION MAP AMENDMENT, AAE2016-0007: REQUEST FOR A DEVELOPMENT AGREEMENT AMENDMENT TO ADD FOUR FISCAL YEAR 2018-2019 BUILDING ALLOTMENTS AND A TENTATIVE SUBDIVISION MAP AMENDMENT FOR THE DEVELOPMENT OF NINE SINGLE FAMILY RESIDENCES ON A 2.17 ACRE SITE. THE PROPERTIES, IDENTIFIED BY ASSESSOR PARCEL NUMBER(S) 726-07-089, 726-07-023 AND 726-07-024, ARE LOCATED ON THE EAST SIDE OF WALNUT GROVE DRIVE, SOUTH OF DIANA AVENUE (NEWLAND HOMES, TIMOTHY HEALEY, DIANA ESTATES, OWNERS). CEQA: MITIGATED NEGATIVE DECLARATION ADOPTED.

RECOMMENDATION(S)

1. DAA-16-01: Recommend City Council approve Amended Development Agreement.
2. SDA-16-02: Recommend Planning Commission approval of the Subdivision Amendment.

LOCATION MAP



Location: East side of Walnut Grove Boulevard south of Diana Avenue
(APN 726-07-023, 024 and 089)

Site Area: 2.17 acres

General Plan: Single Family Medium

Zoning: R-1, 9,000 Single Family Medium Density District

BACKGROUND

Newland Homes is requesting approval of amendments to a previously approved Development Agreement and a Vesting Tentative Subdivision Map to allow the development of nine single-family residences on a 2.1-acre portion of a 4.7-acre vacant site. The Development Agreement will formalize Residential Control System (RDCS) commitments made for Fiscal Years 2017/2018 and 2018/2019.

Newland Homes received five RDCS building allotments in the 2015 RDCS competition for Fiscal Year 2017/2018 (Application No. MC-15-10: Walnut Grove-Newland). An additional 4 building allotments were received in the 2016 RDCS competition for Fiscal Year 2018/2019. (Application No. RDCS2016-0012 Walnut Grove-Newland Homes)

In August 2016, the City Council approved a Zoning Amendment (ZA2016-0005) amending the zoning from Office Industrial MO to the R-1 9,000 zone district to conform to the Single Family Medium General Plan designation which would allow development of single-family residential homes on the subject site in accordance with the R-1-9000 standards that include a minimum lot area of 9,000 square feet (4,200 square feet for duets on a corner lot).

The original Development Agreement (Application No. DA-16-01) and Tentative Subdivision Map (Application No. SD-16-02) for five Fiscal Year 2017/2018 building allotments were reviewed by the Planning Commission at its November 22, 2016 meeting at which time the Commission held a public hearing. The Planning Commission approved the Tentative Subdivision Map and recommended approval of the Development Agreement to the City Council. The Planning Commission added a Condition of Approval requiring that prior to acceptance of the project public improvements, the developer set aside the appropriate funds to construct the balance of street, curb, gutter and sidewalk at Lot No. 1 along the turn around's frontage upon the development of the adjacent property.

The City Council approved the Development Agreement on December 14, 2016. A provision was added to the project Development Agreement requiring that the Developer provide written disclosure to potential purchasers of property within the subdivision that the property is within, or adjacent to an area being considered by the California High Speed Rail for the construction of the California High Speed Rail project.

A Design Review permit (SR2016-0011:Walnut Grove-Newland) for the nine-single family residential units is pending approval by the Community Development Director.

Site Description

The 2.1-acre site is composed of three vacant parcels and is part of a larger 4.7-acre vacant site bounded by Walnut Grove Drive and US Highway 101. The area contains a soil stockpile at its southern end, as well as three trees along Walnut Grove Drive. No development is currently proposed on the southerly portion of the site which is under separate ownership.

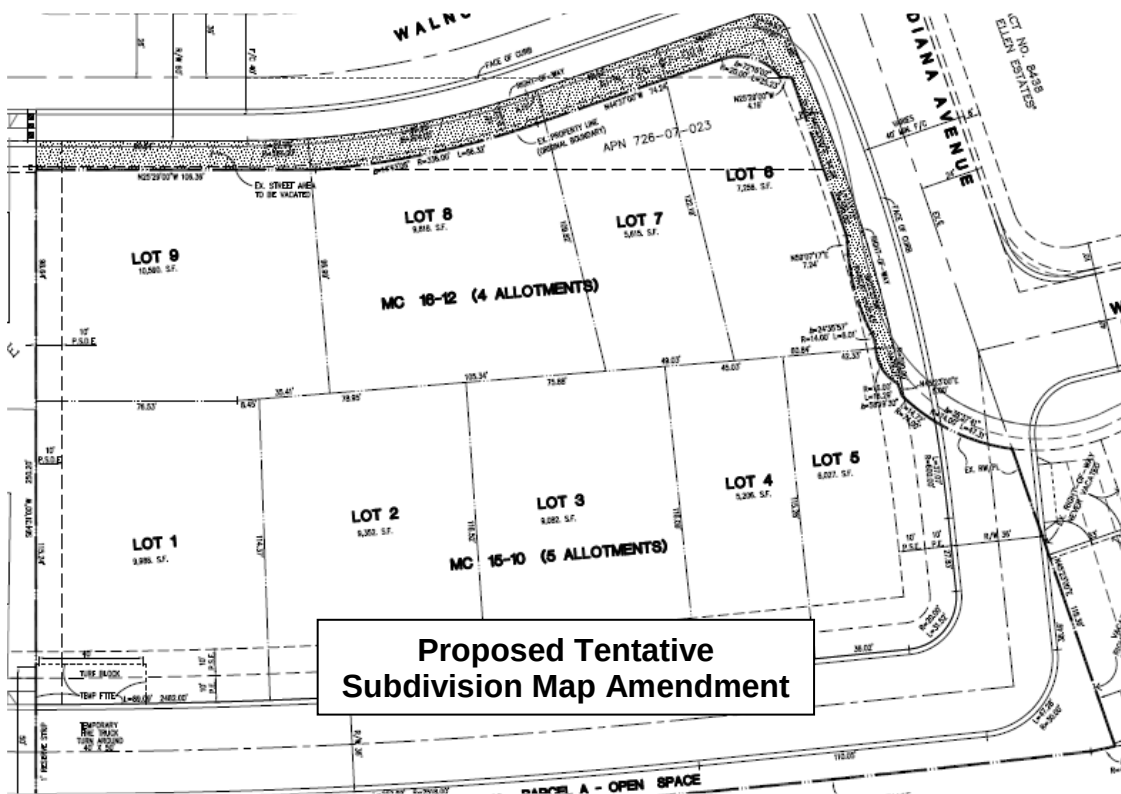
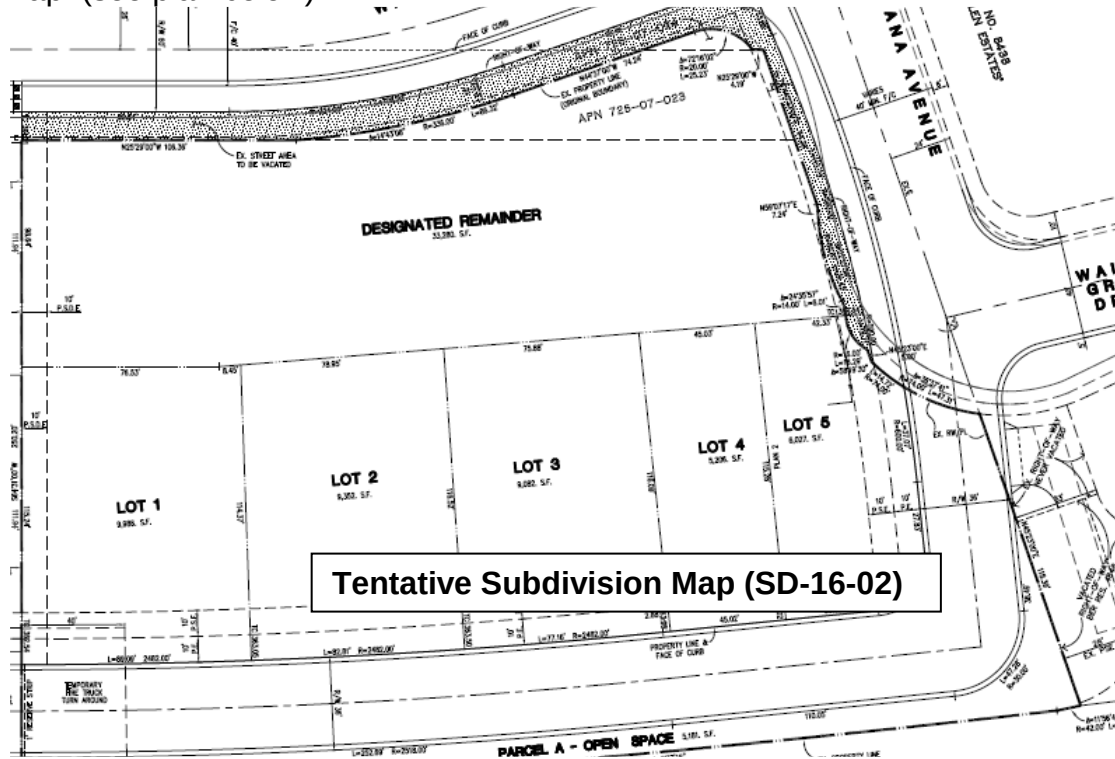
The site is within the boundaries of one of the alternative alignments currently being analyzed for the San Jose to Merced section of the California High Speed Rail project that will go through Morgan Hill. This alternative would be elevated in a viaduct that generally runs on property westerly of Highway 101, including the subject site. No easements or right-of-way have been acquired as the proposed alignment is one of four alternatives that are currently being analyzed. A decision on a preferred alternative is expected by the Fall of 2017.

Adjacent land uses include single-family detached residential homes to the north and west and undeveloped residential zoned property and an automobile dealership to the south. The site is directly adjacent to US Highway 101 to the east.

PROJECT DESCRIPTION

The applicant is requesting approval of a Development Agreement Amendment and a vesting Tentative Subdivision Map Amendment to allow the development of nine single-family residences on a 2.1-acre portion of a 4.7-acre vacant site. The Tentative Map is proposed to be amended to include an additional four lots (Lot No.'s 6-9) in the 0.76-acre area identified as a designated remainder by the original Tentative Subdivision

map. (see plan below)



Two of the four additional lots (Lot No.'s 8 and 9) are proposed for single family detached homes. The two smaller lots (Lot No.'s 6 and 7) are proposed for single family

attached (duet) development as they are below the 9,000 square feet minimum lot size. A 5,181 square foot open space parcel is proposed along the easterly side of the proposed street and a sound wall with a height of 6-feet is proposed along the easterly project boundary to attenuate sound from US Highway 101. (see attached plans)

ANALYSIS:

The proposed amendments to the Tentative Subdivision Map and Development Agreement were analyzed with respect to consistency with the: General Plan, Zoning, Residential Development Control System, Development Agreement and Subdivision Ordinances.

1. General Plan

The Residential Detached Medium General Plan designation allows detached homes on smaller lots, including courtyard homes, manufactured homes, and small-lot single-family homes at a density of up to 7 units per net acre. With the addition of the four additional lots, the site has a density of approximately 4.1 units per acre, complying with the prescribed density range of the General Plan.

The following General Plan policies would apply to the project:

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

The proposed subdivision is located within a developed area of the City of Morgan Hill and primarily surrounded by existing development and/or previously approved subdivisions. Public utilities and services are available at the site without significant expansion or impact to the existing services.

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

The proposed single family subdivision is sensitive to the character of the existing neighborhood as it will have a similar density, scale and layout to the surrounding development.

Policy CNF-10.4 Single-Family Housing Supply. Support actions to maintain an adequate supply of single-family housing throughout the community, including provision of affordable single-family housing to those persons who work within the community.

The proposed 9-unit subdivision in combination with the future development on adjoining parcels is an appropriate infill development that will contribute towards maintaining an adequate supply of single family housing.

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

The proposed subdivision will include full street improvements along the project frontages including curb, gutter and sidewalk. No sidewalk is proposed on the easterly side of the proposed new street which is adjacent to the landscaped open space area used for stormwater treatment.

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.

The proposed subdivision will include a mix of housing types including 5 single-family detached homes, two duet units and 2 secondary units. Up to 25 percent of the total number of units within the project may be duets.

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

As discussed in the CEQA analysis, the proposed lot configuration, sound wall, and required sound attenuation measures will reduce noise levels 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.

The proposed project includes measures to protect future residents from potential noise impacts from the adjacent freeway. As discussed in the CEQA analysis, the proposed lot arrangement, sound wall, and sound attenuation measures will reduce noise levels to meet acceptable exterior noise level standards as contained in the General Plan. (maximum exterior noise level of 60 dBA Ldn in residential areas).

2. Zoning

The project development includes nine single family lots and one remainder. The R-9,000 Development Standards include:

- a. Minimum lot area:
 1. 9,000 square feet
 2. 4,200 square feet for duet units on corner lots.
- b. Minimum lot width:
 1. 70 feet for detached dwellings
 2. 40 feet for single-family attached/duets on corner lots.

c. Minimum lot depth: 85 feet

The following table provides the lot details:

Lot No.	Lot Size (square feet)	Lot Width (feet)	Lot Depth (feet)
1	9,986	87	115
2	9,352	81	115
3	9,082	77	116
4	5,206	45	115
5	6,027	56	115
6	7,256	58	130
7	5,615	48	115
8	9,818	86	100
9	10,590	106	98

As designed, the project complies with the Development Standards of the R-1 9,000 Zoning District.

Circulation

A new 36-foot wide public street is proposed along the eastern edge of the property to provide access to the lots and to separate the homes from the adjoining freeway.

As shown on the Site Plan, this road is intended to be extended with the development of the vacant property to the south. A condition of the Tentative Map includes the requirement for a temporary cul-de-sac to be installed at the proposed dead end street for emergency vehicle turn-around pursuant to Fire Department standards including appropriate temporary dedication to be shown on the Final Map. This cul-de-sac would be temporary and would be removed upon road extension.

A 12-foot wide area of the existing Walnut Grove Drive right-of-way is proposed to be vacated that will reduce the right of way width from 72 to 60-feet to comply with current City standards. A new 3-way intersection will be constructed to extend Diana Avenue to the project.

3. Residential Development Control System

The Planning Commission awarded five (5), Fiscal Year 2017-2018 building allotments to the project (Planning Commission Resolution 16-02) on January 13, 2016. An additional four (4), Fiscal Year 2018-2019 building allotments were awarded to the project (Planning Commission Resolution 17-01) on January 10, 2017. The requested Development Agreement amendment would formalize the commitments made during the Residential Development Control System (RDACS) process and establish construction commencement dates for the project.

4. **Development Agreement**

An amended Development Agreement has been proposed for the project, consistent with the RDCS commitments. The Development Agreement will formalize Residential Control System (RDCS) commitments made for Fiscal Years 2017/2018 and 2018/2019. The amended Development Agreement will establish a development schedule for the project, including a commencement of construction deadline and include other standard City requirements.

The terms and conditions agreed to during the competition have been incorporated into the proposed amended Tentative Subdivision and included in the attached amended Development Agreement. The proposed Development Agreement follows the City's standard form for formalization of RDCS commitments and establishment of a project schedule.

5. **Subdivision Map**

The vesting Tentative Map would allow the applicant to subdivide the parcel into nine lots (and one open space parcel) for single family development.

The Planning Commission shall make the following findings upon approving the Tentative Map:

1. That the proposed map is consistent with applicable general and specific plans;
2. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans;
3. That the site is physically suitable for the type of development;
4. That the site is physically suitable for the proposed density of development;
5. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
6. That the design of the subdivision or the type of improvements are not likely to cause serious public health problems;
7. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of records or to easements established by judgment of a court of competent jurisdiction and no authority is granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

The proposed Tentative Map is consistent with the General Plan and zoning for the site.

Community Engagement

The proposed project was publicly noticed (mailing to property owners within 300 feet of the project and newspaper posting) for the minimum 10-day period and a sign has been posted on the property as required by Section 18.02.085 of the Municipal Code.

Conclusion

The proposed amended subdivision meets the zoning requirements of the R-1 9,000 zone district and is consistent with the General Plan as noted in the above section of this report. Staff recommends Planning Commission recommend City Council approval of the Development Agreement for the project.

Staff recommends Planning Commission approve the amended Tentative Subdivision Map, subject to the findings and conditions contained in the attached resolution and contingent upon City Council approval of the Development Agreement.

LINKS/ATTACHMENTS:

1. Mitigated Negative Declaration
2. Tentative Subdivision Map Plans
3. Resolution Approving Tentative Subdivision Map Amendment
4. Resolution Recommending Approval of Amended Development Agreement
5. Approved Tentative Subdivision Map
6. 03 Supplement 1
7. 03 Supplement 2

County of Santa Clara
Office of the County Clerk-Recorder
Business Division

County Government Center
70 West Hedding Street, E. Wing, 1st Floor
San Jose, California 95110 (408) 299-5688



Santa Clara County - Clerk-Recorder Office
State of California

File Number: ENV20511

ENVIRONMENTAL FILING

No. of Pages: 9

Total Fees: \$2260.25

File Date: 11/30/2016

Expires: 12/30/2016

REGINA ALCOMENDRAS, Clerk-Recorder

By: Sandy Chanthasy, Deputy Clerk-Recorder

CEQA DOCUMENT DECLARATION

ENVIRONMENTAL FILING FEE RECEIPT

PLEASE COMPLETE THE FOLLOWING:

1. LEAD AGENCY: City of Morgan Hill
2. PROJECT TITLE: Walnut Grove - Newland Subdivision
3. APPLICANT NAME: Newland Homes PHONE: 849-344-2704
4. APPLICANT ADDRESS: 3121 Michelson Drive, Suite 110 Irvine CA 92612
5. PROJECT APPLICANT IS A: ☐ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☒ Private Entity
6. NOTICE TO BE POSTED FOR 30 DAYS.
7. **CLASSIFICATION OF ENVIRONMENTAL DOCUMENT**

a. PROJECTS THAT ARE SUBJECT TO DFG FEES

- | | | |
|--|-------------|--------------------|
| ☐ 1. <u>ENVIRONMENTAL IMPACT REPORT</u> (PUBLIC RESOURCES CODE §21162) | \$ 3,070.00 | \$ <u>0.00</u> |
| ☒ 2. <u>NEGATIVE DECLARATION</u> (PUBLIC RESOURCES CODE §21080(C)) | \$ 2,210.25 | \$ <u>2,210.25</u> |
| ☐ 3. <u>APPLICATION FEE WATER DIVERSION</u> (STATE WATER RESOURCES CONTROL BOARD ONLY) | \$ 850.00 | \$ <u>0.00</u> |
| ☐ 4. <u>PROJECTS SUBJECT TO CERTIFIED REGULATORY PROGRAMS</u> | \$ 1,043.75 | \$ <u>0.00</u> |
| ☒ 5. <u>COUNTY ADMINISTRATIVE FEE</u> (REQUIRED FOR a-1 THROUGH a-4 ABOVE)
Fish & Game Code §711.4(e) | \$ 50.00 | \$ <u>50.00</u> |

b. PROJECTS THAT ARE EXEMPT FROM DFG FEES

- | | | |
|--|----------|----------------|
| ☐ 1. NOTICE OF EXEMPTION (\$50.00 COUNTY ADMINISTRATIVE FEE REQUIRED) | \$ 50.00 | \$ <u>0.00</u> |
| ☐ 2. A COMPLETED "CEQA FILING FEE NO EFFECT DETERMINATION FORM" FROM THE DEPARTMENT OF FISH & GAME, DOCUMENTING THE DFG'S DETERMINATION THAT THE PROJECT WILL HAVE NO EFFECT ON FISH, WILDLIFE AND HABITAT, OR AN OFFICIAL, DATED RECEIPT / PROOF OF PAYMENT SHOWING PREVIOUS PAYMENT OF THE DFG FILING FEE FOR THE "SAME PROJECT IS ATTACHED" (\$50.00 COUNTY ADMINISTRATIVE FEE REQUIRED) | | |
| DOCUMENT TYPE: ☐ ENVIRONMENTAL IMPACT REPORT ☐ NEGATIVE DECLARATION | \$ 50.00 | \$ <u>0.00</u> |

c. NOTICES THAT ARE NOT SUBJECT TO DFG FEES OR COUNTY ADMINISTRATIVE FEES

- | | | |
|--|--------|------------------|
| ☐ NOTICE OF PREPARATION ☐ NOTICE OF INTENT | NO FEE | \$ <u>NO FEE</u> |
|--|--------|------------------|

8. OTHER: _____ FEE (IF APPLICABLE): \$ _____

9. TOTAL RECEIVED: _____ \$ 2,260.25

*NOTE: "SAME PROJECT" MEANS NO CHANGES. IF THE DOCUMENT SUBMITTED IS NOT THE SAME (OTHER THAN DATES), A "NO EFFECT DETERMINATION" LETTER FROM THE DEPARTMENT OF FISH AND GAME FOR THE SUBSEQUENT FILING OR THE APPROPRIATE FEES ARE REQUIRED.

THIS FORM MUST BE COMPLETED AND ATTACHED TO THE FRONT OF ALL CEQA DOCUMENTS LISTED ABOVE (INCLUDING COPIES) SUBMITTED FOR FILING. WE WILL NEED AN ORIGINAL (WET SIGNATURE) AND TWO (2) COPIES. (YOUR ORIGINAL WILL BE RETURNED TO YOU AT THE TIME OF FILING.)

CHECKS FOR ALL FEES SHOULD BE MADE PAYABLE TO: SANTA CLARA COUNTY CLERK-RECORDER

PLEASE NOTE: FEES ARE ANNUALLY ADJUSTED (Fish & Game Code §711.4(b)); PLEASE CHECK WITH THIS OFFICE AND THE DEPARTMENT OF FISH AND GAME FOR THE LATEST FEE INFORMATION.

... NO PROJECT SHALL BE OPERATIVE, VESTED, OR FINAL, NOR SHALL LOCAL GOVERNMENT PERMITS FOR THE PROJECT BE VALID, UNTIL THE FILING FEES REQUIRED PURSUANT TO THIS SECTION ARE PAID. Fish & Game Code §711.4(c)(3)

(Fees Effective 01-01-2016)

**NOTICE OF DETERMINATION
CITY OF MORGAN HILL**

TO: ☐ Office of Planning and Research

For U.S. Mail:

P.O. Box 3044

Sacramento, CA 95812-3044

Street Address:

1400 Tenth St., Rm 113

Sacramento, CA 95814

FROM: City of Morgan Hill
Development Services Center
Community Development Dept.
17575 Peak Avenue
Morgan Hill, CA 95037
Rich Buikema, Senior Planner
(408) 778-6480

☒ County Clerk

County of Santa Clara

70 W. Hedding Street, E. Wing, 1st Floor

San Jose, CA 95110

SUBJECT: *Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.*

State Clearinghouse Number (if submitted to State Clearinghouse):

Project Title: Walnut Grove-Newland Subdivision

Project Applicant: Newland Homes
3121 Michelson Drive, Suite 110
Irvine CA 92612

Project Location (include county):

The project site is located at the intersection of Diana Avenue and Walnut Grove Drive, immediately west of U.S. Highway 101 (US 101) in the City of Morgan Hill, California., Morgan Hill, Santa Clara County, (APN: 726-07-021,-023,-024, and -089)

Project Description: The project consists of the development of a vacant 4.7-acre site for residential purposes, in accordance with the Residential Detached Medium General Plan designation and R-1 9,000 zoning standards that establish a minimum lot size of 9,000 square feet for single-family homes and 4,200 square feet for duet units on corner lots.

This is to advise that the City of Morgan Hill has approved the above described project on November 22, 2016.
☒ **Lead Agency** ☐ **Responsible Agency** (Date)

and has made the following determinations regarding the above described project:

1. The project [☐ will ☒ will not] have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐ was not] adopted for this project.
5. A statement of Overriding Considerations [☐ was ☒ was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the Negative Declaration, is available to the General Public at: City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037

Signature (Public Agency)

Terry Linder
Terry Linder

Title: Acting Planning Manager

Date: 11/29/16

Date Received for filing at OPR: _____



PLANNING DIVISION

17575 Peak Avenue Morgan Hill CA 95037 (408) 778-6480 Fax (408) 779-7236
 Website Address: www.morgan-hill.ca.gov

MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Date: October 28, 2016

Application #s: SD 16-02; SR-16-10; EA-16-03

APN: 726-07-021, -023, -024, and -089

Project Title: Walnut Grove-Newland Subdivision

Project Location: The project site is located at the intersection of Diana Avenue and Walnut Grove Drive, immediately west of U.S. Highway 101 (US 101) in the City of Morgan Hill, California.

Project Proponent

Bryan Avilla
 Newland Homes
 3121 Michelson Drive, Suite 110
 Irvine, CA 92612

Project Description: The project consists of the development of a vacant 4.7-acre site for residential purposes, in accordance with the Residential Detached Medium General Plan designation and R-1 9,000 zoning standards that establish a minimum lot size of 9,000 square feet for single-family homes and 4,200 square feet for duet units on corner lots. A Tentative Subdivision Map and a Site and Architectural Review application have been submitted by Newland Homes for the northern 2.1 acres of the project site.

The proposed project would include the subdivision of the northernmost 2.1 acres (APNs 726-07-023, -024, and -089) of the 4.7-acre site into five single-family lots and a designated remainder to be subdivided upon receiving Residential Development Control System (RDSCS) allocation. Two of the five total units would be constructed as duet units, with lots ranging between approximately 5,000 and 7,000 square feet. The remaining lot sizes would range between approximately 9,000 and 11,600 square feet, with the largest lot containing an additional 600 square foot second dwelling unit. The proposed project would also involve the construction of sidewalks along the perimeter of the site and the extension of Diana Avenue along the northeastern/eastern portions of the tentative map area. The extension of Diana Avenue along the eastern boundary of the tentative map area would provide vehicular access to lots 1-5 and serve as a setback from US 101 for noise attenuation purposes.

The project would include connections to existing water and sewer infrastructure in surrounding roads, as well as installation of on-site storm drain lines, which would collect and route storm water runoff to a proposed bio swale/rain tank along the eastern boundary of the project site.

As part of the Initial Study that was prepared for the project, the development of additional residential units on the southern 2.6-acre future development area (APN 726-07-021) was also considered. The conceptual plan for the future development area indicates up to 10 additional lots. Therefore, the total development potential for the 4.7-acre project site is approximately 20 residential units.

The project requires the City's approval of the following entitlements:

- Adoption of an IS/MND and Mitigation Monitoring and Reporting Program.
- Approval of a Tentative Subdivision Map for APNs 726-07-023, -024, and -089 to subdivide the 2.1-acre property in accordance with the R-1-9,000 zoning district.
- Subsequent Design Review approval for residential development resulting in three or more units consistent with the Tentative Map and General Plan.

II. DETERMINATION

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

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

III. MITIGATION AND AVOIDANCE MEASURES

A. Biological Resources

MM BIO-1 *A pre-construction survey shall be conducted by a qualified Burrowing Owl biologist no more than 30 days prior to initiation of any ground disturbing (construction) activity to assure take avoidance of burrowing owls. The survey shall consist of a habitat assessment, burrow survey, owl survey, and completion of a written report. The written report shall be submitted to the Community Development Department. If owls are observed during the preconstruction survey, no impacts to the owls or their habitat will be allowed during the nesting season (February 1 to August 31).*

MM BIO-2 *Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones, with a 250-foot radius from occupied burrows, shall be established. All development-related activities shall occur outside of the exclusion area until the young have fledged.*

MM BIO-3. *If pre-construction surveys are conducted during the non-breeding season (September 1 through January 31) and burrowing owls are observed on the site, the owls may be relocated upon approval by the California Department of Fish and Wildlife, in accordance with the Burrowing Owl Mitigation Plan.*

MM BIO-4 *No later than submittal of the first construction or grading permit for the Newland Homes Tentative Map area, the owner or designee shall pay the Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the 2.1-acre site,*

- Construct a temporary fence as far from the tree stem (trunk) as possible, completely surrounding the tree, and six to eight feet in height. Post no parking or storage signs outside/on fencing. Do not attach posting to the mainstem of the tree.
- Do not allow vehicles, equipment, pedestrian traffic; building materials or debris storage; or disposal of toxic or other materials inside of the fenced off area.
- Avoid pruning immediately before, during, or immediately after construction impact. Perform only that pruning which is unavoidable due to conflicts with proposed development. Aesthetic pruning should not be performed for at least one to two years following completion of construction. Trees that will be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities.
- Mulch 'rooting' area with an acidic, organic compost or mulch.
- Arrange for periodic (biannual/quarterly) inspection of tree's condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.
- Individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or a more detailed specification than those contained within these general guidelines will be established in the tree preservation plan.

B. Hazards and Hazardous Materials

MM HAZ-1: *If any debris or stained soil is encountered within the soil stockpile during construction activities, the contractor shall contact the project applicant, who shall retain the services of a qualified environmental hazard firm, to evaluate the debris to determine whether it poses any environmental contamination risks. A written evaluation shall be submitted to the City of Morgan Hill Community Development Department. If the debris is trash or other non-hazardous material, then the contractor shall dispose of the debris and no further mitigation shall be required. If the debris is associated with signs of soil staining or odors indicative of hazardous materials, the project environmental professional shall obtain samples of the potentially impacted soil for analysis of the contaminants of concern and comparison with applicable regulatory residential screening levels (i.e., Environmental Screening Levels, California Human Health Screening Levels, Regional Screening Levels, etc.). Where the soil contaminant concentrations exceed the applicable regulatory residential screening levels, the impacted soil shall be excavated and disposed of offsite at a licensed landfill facility to the satisfaction of the Santa Clara County Environmental Health Department and the City of Morgan Hill.*

MM HAZ-2: *Prior to issuance of a grading permit, the applicant shall hire an Environmental Consultant to perform a Phase II Environmental Site Assessment (ESA) in order to determine whether pesticides are persistent in on-site soils. The soil analytical results shall be documented in the Phase II ESA report and submitted to the City Community Development Department. If the Phase II ESA determines that the on-site soils have not been impacted, further mitigation is not required.*

If the Phase II ESA determines that on-site soils have been impacted, and contaminants are identified in excess of the California Human Health Screening Levels [CHHSLs] for residential land uses, the contaminated areas shall be remediated such that the resultant concentrations are below the CHHSLs for residential land uses. The Phase II ESA shall specify measures for the remediation of the soils, including proper removal and disposal procedures. The relative efficacy of potential removal technologies is dependent on subsurface conditions, including soil lithology, groundwater depth, and contaminant type/extent. Accordingly, several remediation options may be considered. For soil contamination, potential removal technologies could include, but would not necessarily be limited to, the following:

- *Excavation and off-haul – Impacted soils are excavated until the excavation base and sidewalls do not exhibit impact above a specific screening level or cleanup goal. The excavated soils are transported and disposed of at an appropriate landfill facility.*
- *Bioremediation - Nutrients, oxygen, and biological cofactors are introduced to the soil (either in-place or post-excavation in a treatment area) to stimulate natural biological breakdown of the contaminants.*
- *Bioaugmentation – Similar to bioremediation, except that bioaugmentation involves the introduction of engineered microorganisms to the soil to degrade the contaminants.*
- *Soil vapor extraction (SVE) - Soil gas is extracted from the subsurface under vacuum and brought to the surface, where it is treated.*

The project applicant shall comply with all recommendations of the Phase II ESA for review and approval by the Santa Clara County Department of Environmental Health and the City of Morgan Hill.

Noise

Newland Homes Tentative Map Area and Future Development Area

MM NOI-1: *In conjunction with submittal of Improvement Plans, the applicant shall show on the Improvement Plans that a noise barrier shall be constructed along the project site's entire US 101 frontage sufficient to reduce noise levels to acceptable levels. If the sound wall is not constructed along the Future Development Area at this time, a sound fence shall be installed along the south side of the Newland Homes Tentative Map area as shown in Figure 9 of the Initial Study. The sound fence shall consist of 100% overlap on fence slats, which shall be screwed to the frame, not stapled or nailed.*

The noise barrier(s) shall be a minimum height of six feet in order to reduce noise levels to acceptable levels; however, the specific height, design, and location of the noise barrier(s) shall be confirmed based upon the final approved site and grading plans to the satisfaction of the City Engineer. The Improvement Plans shall be subject to review and approval by the City Engineer.

MM NOI-2: *In conjunction with submittal of building plans, the applicant shall show on the plans that mechanical ventilation (air conditioning) shall be provided for all residences to allow the occupants to close doors and windows as desired to achieve*

compliance with the applicable interior noise level criteria. The building plans shall be subject to review and approval by the City Building Division.

Newland Homes Tentative Map Area

MM NOI-3: *In conjunction with submittal of building plans for the Tentative Map area (i.e. APNs 726-07-024, -023, and -089) the applicant shall show on the plans that, for all of the proposed residences closest to US 101, all second-floor windows on the north, east, and south sides of the buildings shall have a minimum STC rating of 35, and all first-floor windows on the north, east, and south sides shall have a minimum STC rating of 32. The building plans shall be subject to review and approval by the City Building Division.*

Future Development Area

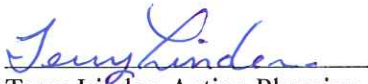
MM NOI-4 *In conjunction with submittal of building plans for residences on the 2.6-acre future development area (i.e. APN 726-07-021), the applicant shall show on the plans that the outdoor activity areas shall be located such that those areas shall be shielded in the direction of US 101 by the residential structure itself. The building plans shall be subject to review and approval by the City Building Division.*

MM NOI-5. *In conjunction with submittal of building plans for the future residences in the 2.6-acre future development area (i.e. APN 726-07-021), the applicant shall show on the plans that the first and second-floor window STC ratings for all windows on the north, east, and south sides of the buildings shall be designed in accordance with Table 9. The building plans shall be subject to review and approval by the City Building Division.*

Table 9 Required Window STC Ratings as a Function of Building Setbacks from Highway 101 Centerline		
Distance from Hwy 101 C/L to building facades (ft) ¹	Required Window STC Rating ²	
	1 st Floor Facades ³	Upper-Level Facades
150	32	37
170	32	37
190	32	35
210	32	35
230	32	35
250	32	35
270	32	35
290	27	32
310	27	32
330	27	32
350	27	32
370	27	32
Notes:		
¹ Distance from said location to the centerline of Highway 101.		
² The required STC ratings would provide an approximate 3 dB margin of safety relative to the City's 45 dB Ldn interior noise level standard and would only be required on the north, east, and south-facing facades of the future residences located in the southern section identified in Figure 9 of the Initial Study.		
Source: Bollard Acoustical Consultants, Inc., 2016.		

III. FINDING

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


Terry Linder, Acting Planning
Manager

Date: 11/29/16

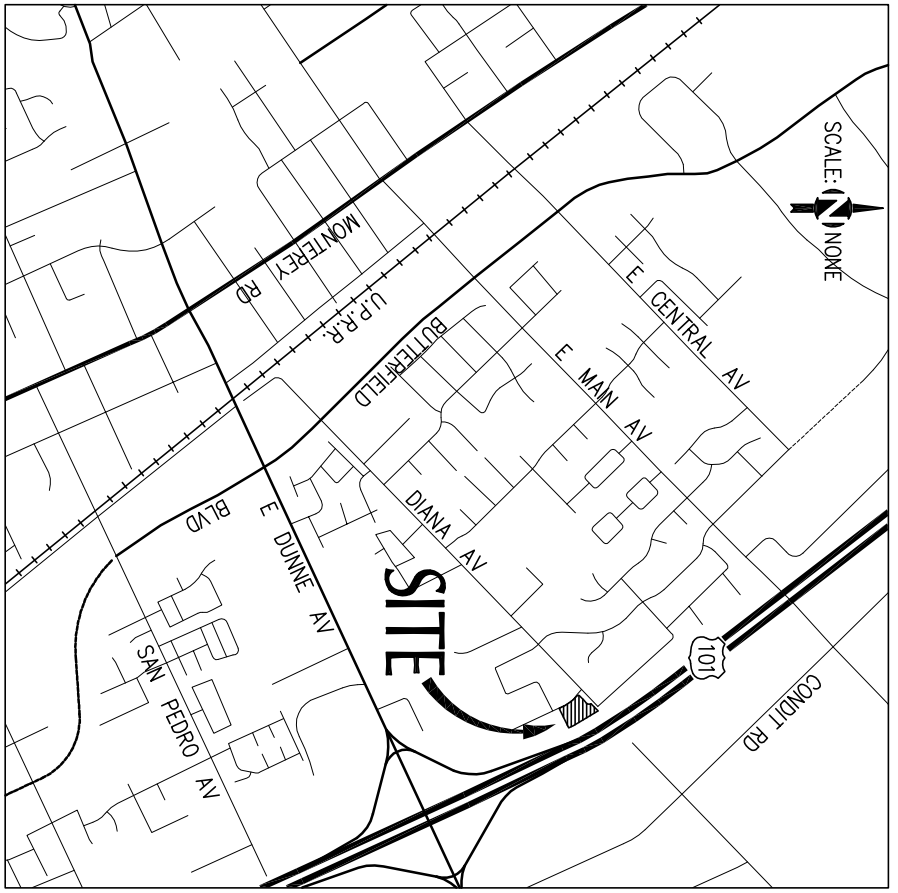
notes:

ASSESSOR'S PARCEL NO. 726-07-089, 023, 024
PROPOSED USE: VACANT
PRESENT ZONING: RESIDENTIAL
PROPOSED ZONING: R1-9.000
CITY OF MORGAN HILL
PG&E: CITY OF MORGAN HILL
GAS and ELECTRIC: PG&E
WATER: CITY OF MORGAN HILL
TELEPHONE: VERIZON
EXISTING IMPROVEMENTS: AS SHOWN
GENERAL PLAN: SINGLE FAMILY MEDIUM

density calcs:

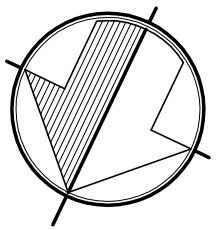
TOTAL PROJECT AREA: 2172 ACRES
ORIGINAL BOUNDARY AREA: 2,070 ACRES
VACATED STREET AREA: 0.102 ACRES
DEDICATED RIGHT OF WAY: 0.397 ACRES
PROJECT NET AREA: 1,775 ACRES
PROPOSED LOTS: 9 UNITS
NO. UNITS PROPOSED: 9 UNITS
OPEN SPACE AREA: 0.119 ACRES

vicinity map:



abbreviations:

APN ASSESSOR'S PARCEL NUMBER
EX. S.D.E. EXISTING STORM DRAINAGE EASEMENT
P.S.E. PRIVATE STORM DRAINAGE EASEMENT
P.E. PUBLIC EASEMENT



SCALE : 1" = 20'



16075 Vineyard Boulevard Morgan Hill, CA 95037

DATE: 12/16 DRAWN: MM CHECKED: WMM

Newland Homes
vesting tentative map

owners:

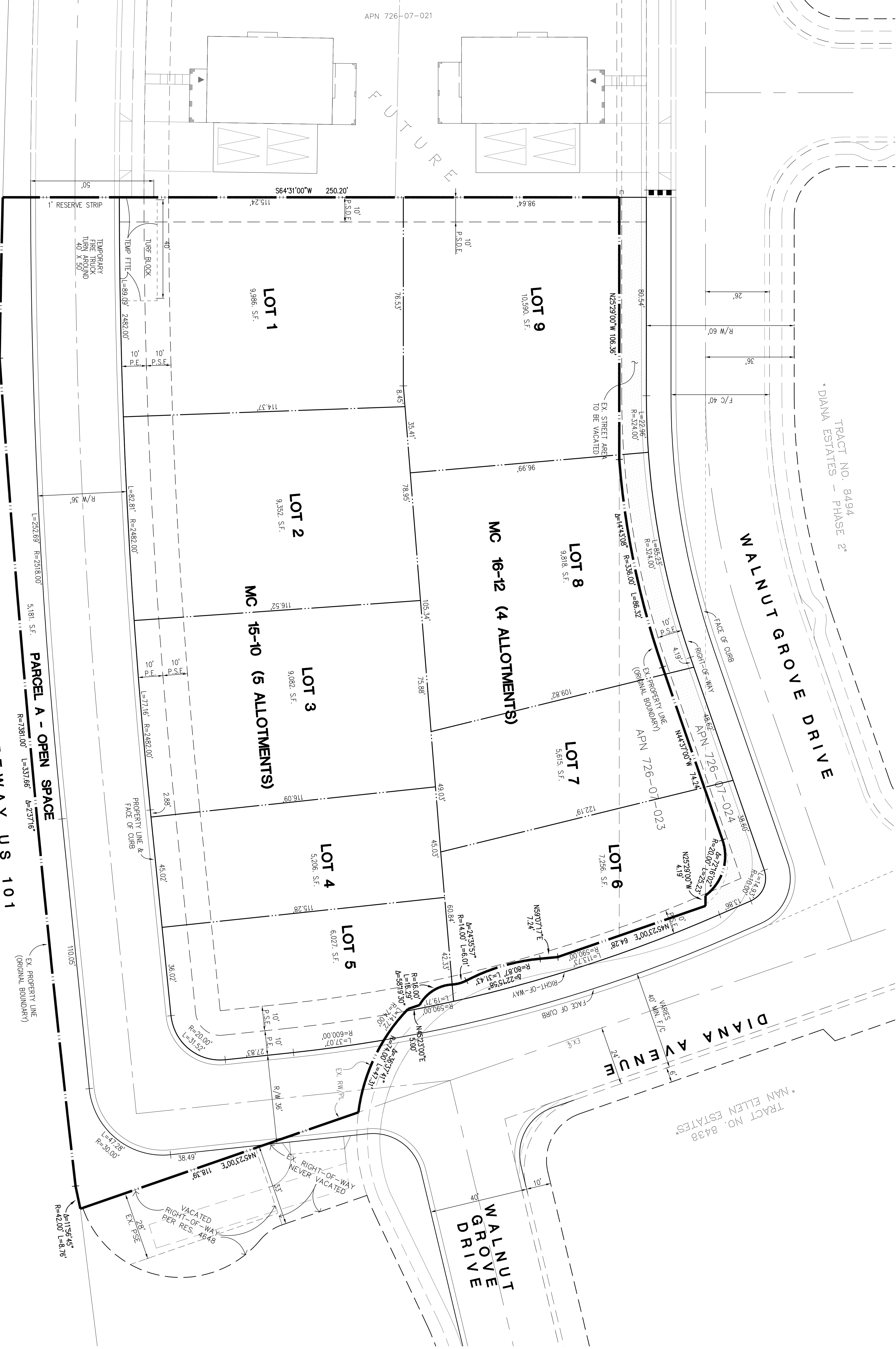
LIGHT OF THE WORLD APOSTOLIC CHURCH
4841 WELLINGTON PARK DRIVE
SAN JOSE, CA 95136
TIM J. HEALY
4132 RICHES DRIVE
SAN JOSE, CA 95117

applicant:

BRYAN AVILA
3121 MICHELSON DRIVE, SUITE 110
IRVINE, CA 92612
(949) 344-2705

engineer:

MH ENGINEERING
16075 VINEYARD BLVD.
MORGAN HILL, CA 95037
(408) 779-7381
R.C.E. 24893



RESOLUTION NO. 17-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A VESTING TENTATIVE SUBDIVISION MAP FOR A 9-LOT RESIDENTIAL SUBDIVISION WITH 1 OPEN SPACE LOT ON A 2.1 ACRE SITE LOCATED ON THE EAST SIDE OF WALNUT GROVE DRIVE, IN THE R-1 9,000 ZONING DISTRICT (APN 726-07-089, -023, -024)

WHEREAS, such request was considered by the Planning Commission at its regular meeting of March 28, 2017, at which time the Planning Commission approved the subdivision application, SD16-02 Walnut Grove-Newland; 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 tentative parcel map titled “Newland Homes” on file with the Planning Division complies with the subdivision map requirements set forth under Section 17.20 of the Morgan Hill 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 initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Planning Commission’s independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the Resolution. 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.

**PASSED AND ADOPTED THIS 28th DAY OF MARCH 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, _____, applicant(s), hereby agree to accept and abide by the terms
and conditions specified in this resolution.

By: _____

Date: _____

EXHIBIT "A"

CONDITIONS OF APPROVAL

APPLICATION: AAE2017-0010: Walnut Grove-Newland (Tentative Subdivision Map Amendment)

THE FOLLOWING ARE CONDITIONS OF APPROVAL THAT MUST BE MET PRIOR RECORDATION OF THE FINAL MAP.

ACRONYMS:

MHMC – Morgan Hill Municipal Code

MHARH – Morgan Hill Architectural Review Handbook

EXHIBIT A

CONDITIONS OF APPROVAL

PLANNING DIVISION

1. The Tentative Subdivision Map approval granted under this Resolution shall remain in effect for two years to March 28, 2019. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Planning Commission prior to the expiration date. (MHMC 17.20.170; 17.24.110)
2. **MAP APPROVAL:** The Tentative Map approval granted under this Resolution is for the tentative map documents date stamped November 2016 on file at the Community Development Department, entitled "Newland Homes Vesting Tentative Map". These documents, as amended by Design Review approval, show the location and sizes of all lots in this development, the location and dimensions of all vehicle and pedestrian circulation ways, landscape areas and other easement areas. The final map shall be in substantial compliance with the approved tentativemap.
3. Recordation of a final map shall be in accordance with the number of building allotments granted through the Residential Development Control System (RDCS) for this project. Should a portion of the project's building allotment expire prior to final map approval, the number of lots on the final map shall be reduced to correspond to the remaining allotment. (MHMC 18.78.020)
4. **CC & RS:** The applicant shall provide a set of Covenants, Conditions and Restrictions, Bylaws and Articles of Incorporation, for review and approval by the Community Development Department prior to final occupancy or recordation of the final map. All such CC&Rs shall include the following text:
 - i. Common Areas/Right of Ways:
 1. The Owners recognize that the use, modification and proper maintenance of the Common Area and public right-of-way(s)* are for the benefit of all citizens of the City of Morgan Hill (City) and that the City is an intended third party beneficiary of these covenants, conditions and restrictions and may, upon notice of hearing as set forth below, exercise the same powers of enforcement as the Association.

- a. *Public right-of-way: Exclusive of streets dedicated to and accepted by the City of Morgan Hill
2. The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within thirty (30) days of the mailing or delivery of such notice, the City shall have standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.
3. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association.
4. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
5. This section may not be amended without the prior written consent of the Director of Community Development for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
6. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance obligation or duty of maintenance is increased by such amendment.
 - ii. Tree and Landscape Preservation: The Owners of the Units and Association shall preserve and maintain all trees and landscape on the property originally required by the approved landscape plan and shall not remove or alter any such trees or landscape from the Property without the approval of the Director of Community Development of the City of Morgan Hill.
 - iii. Compliance with the City of Morgan Hill Conditions of Approval: It shall be the responsibility of each Owner and the Association to insure that any changes or modifications to the Project or any Unit are in compliance with the original City conditions of approval of the Project, which are hereby incorporated herein as if set forth in full.
5. FINAL PLANS: Final site development plans shall be reviewed and approved by the Community Development Agency prior to issuance of a building permit. All such plans shall include:

- A. Detail depicting all concrete curbs as full formed. (MHMC 18.50.270)
 - B. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.
 - C. Any and all existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.
6. DUST, NOISE, VIBRATION, AND MATERIALS MANAGEMENT PLAN: A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.(MHMC 18.48.005)

The plan must include the following “Basic Construction Mitigation Measures” per Bay Area Air Quality Management District’s guidelines:

- i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- vii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
- viii. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.
- ix. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

- x. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
 - xi. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
 - xii. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
 - xiii. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
 - xiv. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
 - xv. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
 - xvi. Minimizing the idling time of diesel powered construction equipment to two minutes.
 - xvii. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
 - xviii. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
 - xix. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
 - xx. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.
7. STREET NAMES: Street names, private or otherwise, used to identify building locations shall be submitted to the Planning Division for approval. Proposed street names shall comply with the Street Naming Policy approved by City Council. (Res No. 4601)
8. ON-SITE DRAINAGE AND RECREATION PARCELS: A note shall be placed on the final map which shall indicate that lot 19 labeled as "Parcel A-Open Space" shall be used for no purpose other than for on-site storm drainage facilities, project utilities and project access. All proposed trails, private open space and associated facilities shall be permanently secured with appropriate documentation [i.e., Deeds; Easements; Covenants, Conditions and Restrictions (CC&Rs), Dedication, Homeowners Association; etc.).

9. DEFENSE AND INDEMNITY: Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this subdivision application. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.
10. MITIGATION FEE ACT: Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun. This right to protest does not apply to voluntary Residential Development Control System fees.
11. SIGNED RESOLUTION REQUIRED: Submit two (2) signed copies of Approval Resolution No. 16- to the Planning Division prior to issuance of building permits.
12. SIGNED DEVELOPMENT AGREEMENT REQUIRED: Prior to approval of the final map, the property owner shall submit to the Planning Division two (2) signed notarized copies of the Development Agreement for the project.
13. RECORDATION OF MAP: The recordation of the final map shall not be completed until approval of the Design Review Permit is completed.
14. DESIGN PERMIT REQUIRED: Prior to approval of the final map, the project shall obtain Design Review approval of the project.
15. HABITAT PLAN
 - a. The approved project is covered under the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.
 - b. Prior to issuance of building permits or grading permits the project shall complete and submit a Habitat Plan Application Package. All fees must be paid prior to issuance building permits or grading permits. **(MHMC 18.69.050)**
 - c. Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement

plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt). (MHMC 18.69.040)

20. MITIGATION: The applicant shall be subject to compliance with the mitigation measures of the project's adopted Mitigated Negative Declaration. The following mitigation measures shall be included with all building permit, grading, or improvement plans.

1. Biological Resources

- MM BIO-1** A pre-construction survey shall be conducted by a qualified Burrowing Owl biologist no more than 30 days prior to initiation of any ground disturbing (construction) activity to assure take avoidance of burrowing owls. The survey shall consist of a habitat assessment, burrow survey, owl survey, and completion of a written report. The written report shall be submitted to the Community Development Department. If owls are observed during the preconstruction survey, no impacts to the owls or their habitat will be allowed during the nesting season (February 1 to August 31).
- MM BIO-2** Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones, with a 250-foot radius from occupied burrows, shall be established. All development-related activities shall occur outside of the exclusion area until the young have fledged.
- MM BIO-3.** If pre-construction surveys are conducted during the non-breeding season (September 1 through January 31) and burrowing owls are observed on the site, the owls may be relocated upon approval by the California Department of Fish and Wildlife, in accordance with the Burrowing Owl Mitigation Plan.
- MM BIO-4** No later than submittal of the first construction or grading permit for the Newland Homes Tentative Map area, the owner or designee shall pay the Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the 2.1-acre site, as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.69.150 of the Morgan Hill Municipal Code. Similarly, no later than submittal of the first construction or grading permit for the southern 2.6-acre future development area, the applicant of such development shall pay the appropriate Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the 2.6-acre area, as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.69.150 of the Morgan Hill Municipal Code.
- MM BIO-5** If construction is proposed during breeding season (February 1 to August 31), a pre-construction nesting survey for raptors and other protected migratory birds shall be conducted by a qualified biologist and submitted to the City of Morgan Hill Community Development Department for review no more than 14 days prior to the start of construction. Pre-construction surveys during the non-breeding season (September 1 to January 31) are not necessary for birds, including roosting raptors, as they are expected to abandon their roosts during construction. If these species are deemed absent from the area, construction

may occur within 14 days following the survey during the early nesting season (February to May) and within 30 days following the survey during the late nesting season (June to August).

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

MM BIO-6. Prior to removal of any on-site trees, as defined in Section 12.32.020 of the City of Morgan Hill Municipal Code, the applicant shall obtain a tree removal permit from the City of Morgan Hill in accordance with the Municipal Code. A certified arborist shall identify the precise location, type, size, and health of each tree proposed for removal. All protected trees removed on-site, including trees that are fatally damaged as a result of project buildout, shall be subject to replacement plantings as determined by the City of Morgan Hill's Community Development Department.

For any subject trees that are not proposed for removal, prior to approval of Improvement Plans, the project applicant shall retain a certified arborist to prepare a tree protection plan, subject to review and approval by the Community Development Department. The plan shall demonstrate how any retained trees are to be protected during and after construction. The tree protection plan shall include, but not be limited to, the following:

- Locate structures, grade changes, etc. as far as feasible from the 'dripline' area of the tree.
- Avoid root damage through grading, trenching, compaction, etc. Where root damage cannot be avoided, roots encountered (over one-inch diameter) should be exposed beyond the area to be disturbed (towards tree stem), by appropriate methods, and immediately back-filled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.
- Construct a temporary fence as far from the tree stem (trunk) as possible, completely surrounding the tree, and six to eight feet in height. Post no parking or storage signs outside/on fencing. Do not attach posting to the mainstem of the tree.
- Do not allow vehicles, equipment, pedestrian traffic; building materials or debris storage; or disposal of toxic or other materials inside of the fenced off area.
- Avoid pruning immediately before, during, or immediately after construction impact. Perform only that pruning which is unavoidable

due to conflicts with proposed development. Aesthetic pruning should not be performed for at least one to two years following completion of construction. Trees that will be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities.

- Mulch 'rooting' area with an acidic, organic compost or mulch.
- Arrange for periodic (biannual/quarterly) inspection of tree's condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.
- Individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or a more detailed specification than those contained within these general guidelines will be established in the tree preservation plan.

2. Hazards and Hazardous Materials

MM HAZ-1: If any debris or stained soil is encountered within the soil stockpile during construction activities, the contractor shall contact the project applicant, who shall retain the services of a qualified environmental hazard firm, to evaluate the debris to determine whether it poses any environmental contamination risks. A written evaluation shall be submitted to the City of Morgan Hill Community Development Department. If the debris is trash or other non-hazardous material, then the contractor shall dispose of the debris and no further mitigation shall be required. If the debris is associated with signs of soil staining or odors indicative of hazardous materials, the project environmental professional shall obtain samples of the potentially impacted soil for analysis of the contaminants of concern and comparison with applicable regulatory residential screening levels (i.e., Environmental Screening Levels, California Human Health Screening Levels, Regional Screening Levels, etc.). Where the soil contaminant concentrations exceed the applicable regulatory residential screening levels, the impacted soil shall be excavated and disposed of offsite at a licensed landfill facility to the satisfaction of the Santa Clara County Environmental Health Department and the City of Morgan Hill.

MM HAZ-2: Prior to issuance of a grading permit, the applicant shall hire an Environmental Consultant to perform a Phase II Environmental Site Assessment (ESA) in order to determine whether pesticides are persistent in on-site soils. The soil analytical results shall be documented in the Phase II ESA report and submitted to the City Community Development Department. If the Phase II ESA determines that the on-site soils have not been impacted, further mitigation is not required.

If the Phase II ESA determines that on-site soils have been impacted, and contaminants are identified in excess of the California Human Health Screening Levels [CHHSLs] for residential land uses, the contaminated areas shall be remediated such that the resultant concentrations are below the CHHSLs for residential land uses. The Phase II ESA shall specify measures for the remediation of the soils, including proper removal and disposal

procedures. The relative efficacy of potential removal technologies is dependent on subsurface conditions, including soil lithology, groundwater depth, and contaminant type/extent. Accordingly, several remediation options may be considered. For soil contamination, potential removal technologies could include, but would not necessarily be limited to, the following:

- Excavation and off-haul – Impacted soils are excavated until the excavation base and sidewalls do not exhibit impact above a specific screening level or cleanup goal. The excavated soils are transported and disposed of at an appropriate landfill facility.
- Bioremediation - Nutrients, oxygen, and biological cofactors are introduced to the soil (either in-place or post-excavation in a treatment area) to stimulate natural biological breakdown of the contaminants.
- Bioaugmentation – Similar to bioremediation, except that bioaugmentation involves the introduction of engineered microorganisms to the soil to degrade the contaminants.
- Soil vapor extraction (SVE) - Soil gas is extracted from the subsurface under vacuum and brought to the surface, where it is treated.

The project applicant shall comply with all recommendations of the Phase II ESA for review and approval by the Santa Clara County Department of Environmental Health and the City of Morgan Hill.

Noise

Newland Homes Tentative Map Area and Future Development Area

MM NOI-1: In conjunction with submittal of Improvement Plans, the applicant shall show on the Improvement Plans that a noise barrier shall be constructed along the project site's entire US 101 frontage sufficient to reduce noise levels to acceptable levels. If the sound wall is not constructed along the Future Development Area at this time, a sound fence shall be installed along the south side of the Newland Homes Tentative Map area as shown in Figure 9 of the Initial Study. The sound fence shall consist of 100% overlap on fence slats, which shall be screwed to the frame, not stapled or nailed.

The noise barrier(s) shall be a minimum height of six feet in order to reduce noise levels to acceptable levels; however, the specific height, design, and location of the noise barrier(s) shall be confirmed based upon the final approved site and grading plans to the satisfaction of the City Engineer. The Improvement Plans shall be subject to review and approval by the City Engineer.

MM NOI-2: In conjunction with submittal of building plans, the applicant shall show on the plans that mechanical ventilation (air conditioning) shall be provided for all residences to allow the occupants to close doors and windows as desired to achieve compliance with the applicable interior noise level criteria. The

building plans shall be subject to review and approval by the City Building Division.

Newland Homes Tentative Map Area

MM NOI-3: In conjunction with submittal of building plans for the Tentative Map area (i.e. APNs 726-07-024, -023, and -089) the applicant shall show on the plans that, for all of the proposed residences closest to US 101, all second-floor windows on the north, east, and south sides of the buildings shall have a minimum STC rating of 35, and all first-floor windows on the north, east, and south sides shall have a minimum STC rating of 32. The building plans shall be subject to review and approval by the City Building Division.

BUILDING DIVISION

- A. Prior to recordation of the final map, a Civil Engineer licensed by the State of California shall validate with stamped plans and letter indicating the location and quantity of all imported soil. The letter shall also state the condition of the soil and ensure that any hazardous material regulated by the State of California or a Federal agency is below threshold limit concentrations set by the respective regulatory agency.

FIRE DEPARTMENT

1. **Preliminary Review Only,** The requirements and conditions stated in this review are preliminary and are intended to be used for the purposes of project planning. An official Fire Department review of the project will be conducted upon receipt of a complete plan submittal application that clearly shows all intended grading, demolition, construction or building modifications.
2. **Automatic Fire Sprinkler System Required (SFD),** New homes located within the hazardous fire area, and in the non hazardous fire area homes shall be protected throughout by an approved, automatic fire sprinkler system, hydraulically designed per National Fire Protection Association (NFPA) Standard #13D (**CFC Chapter 9 as amended by MHMC 15.44.170**)
3. **Fire Apparatus (Engine) Access Roads Required,** Prior to the commencement of combustible construction, an access roadway with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet, 6 inches shall be provided, with minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%, unless otherwise approved in writing by the Fire Marshal. Installations shall conform to the City of Morgan Hill Standard Details and Specifications 11-B. (**CFC section 503 as amended by MHMC 15.44.140**)
4. **Public Fire Hydrant(s) required,** Provide public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the City of Morgan Hill Public Works Department. Maximum hydrant spacing shall be 500 feet and the minimum single flow hydrant shall be 1000 GPM at 20 psi residual pressure. If fire hydrants are already in place,

include civil drawings showing location of all hydrants with the building permit submittal. (CFC 507)

5. **Premises Identification.** Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background and be a minimum of four inches in height. (CFC section 505)
6. **Timing of Required Roadway Installations.** Prior to the commencement of combustible construction, the required roadway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the City of Morgan Hill unless otherwise approved in writing by the Fire Marshal. Bulk combustible construction materials shall not be delivered to the construction site until installations are completed as stated above. During construction, emergency access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed. (CFC Chapter 14 as amended by MHMC 15.44.180)

PUBLIC WORKS 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. Along the existing Diana Avenue and Walnut Grove Drive frontage the existing street shall be reconstructed (gutter to gutter) to locate the crown of the road to match the new centerline; the new frontage top of curb elevations shall match the existing (opposite) top of curb elevations.
4. A Home Owners Association shall be formed for the maintenance of common areas.
5. The existing waterline shall be relocated into the proposed street pavement area at lot 5.
6. All retention/detention ponds shall be privately maintained by the HOA; provide LID calculation per the City Stormwater BMP manual to be included with the SWRMP.
7. At the corner of Diana and Walnut Grove, portions of proposed Lots 1 and 2 include real property owned by Tim Healey (APN 726-07-023) and Diana Estates (APN 726-07-024). Developer shall purchase said real property in fee prior to final map approval.
8. At 17380 Walnut Grove Drive (APN 726-08-069), developer shall coordinate directly with the owners, Nugyen/Ngo, on the reconfiguration of the property frontage along the proposed street and Walnut Grove Drive. Written agreement with regards to this frontage improvement shall be provided prior to approval of any permits, as these improvement shall be part of/accepted with the in tract improvements.
9. Open Space area adjacent to the U.S. 101 right of way shall be a separate Open Space parcel maintained by the HOA.
10. Public Works impact fees are required for this project and must be paid prior to occupancy of each unit.

11. At the proposed dead end street, a standard barricade shall be installed with signage stating that a future through street shall be installed; no fencing of any type shall be installed behind barricade.
12. At the proposed dead end street, a vehicle/emergency vehicle access (EVA) turn around shall be provided. A temporary asphalt paved vehicle/EVA turn around shall be reserved/constructed on LOT 1. The vehicle turn around area shall be striped and clearly marked as a NO PARKING AREA. An appropriate temporary easement dedication shall be shown on the final map, with the condition upon the development of the adjacent property to the south that the HOA shall install the balance of street, curb, gutter and sidewalk at LOT 1 along the turn around's frontage. Prior to acceptance of the project public improvements, the developer shall set aside the appropriate funds to construct the said public improvements, with the funds being deposited into an approved HOA account.

II. GENERAL

- A. 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)**
- B. 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)**
- C. 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)**
- D. Obtain necessary encroachment permits from:
☒ City of Morgan Hill
and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**
- E. Improvement plans are to show water lines, sanitary Sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- F. 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)**
- G. 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)**
- H. **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)**

III. STREET IMPROVEMENTS

- A. 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)**
- B. 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)**
- C. Dedication of a total of 30 feet from center line of public right-of-way on Walnut Grove and Diana. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.90; 12.02.100; 17.28.010)**
- D. Dedication of the required corner cutoff at the intersection of Walnut Grove and Diana. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010)**
- E. 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)**

IV. SANITARY SEWER SYSTEM

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

V. STORM DRAIN SYSTEM

- A. 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)**
- B. 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)**
- C. 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)**
- D. 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.
 - 1. Storm drain calculations to determine detention/retention pond sizing and operations.
 - 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
 - 3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.**(CMH Design Standards and Standard Details for Construction)**
- E. Where the project adjoins existing Santa Clara Valley Water District storm drain facilities, applicant shall obtain dedication(s) of all necessary easement or right-of-way to accommodate established ultimate facilities master plan.
- F. As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number to 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).**

VI. WATER SYSTEM

- A. 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)**
- B. Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD) Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.
- C. 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)**
- D. Provide separate water services and meters for each lot. These are to be installed by developer. **(MHMC 17.32.020 D)**

VII. OTHER CONDITIONS

- A. 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)**
- B. 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.
- C. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**
- D. 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:
 - 1. Civil Engineer of record.
 - 2. Geotechnical Engineer of record.
 - 3. Third Party QSD/QSP SWPPP Inspector.
 - 4. General Contractor.
 - 5. Sub Contractors.

RESOLUTION NO.**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL RECOMMENDING
CITY COUNCIL APPROVAL OF DEVELOPMENT
AGREEMENT AMENDMENT APPLICATION AAE2016-
0010: WALNUT GROVE-NEWLAND (APN 726-07-
089,726-07-023, -024)**

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 16-47 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDCS), 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, the Planning Commission, pursuant to Section 18.78.125 of the Morgan Hill Municipal Code, awarded five building allotments (Fiscal Year 2017-2018) for application MC-15-10: Walnut Grove-Newland and four building allotments (Fiscal Year 2018-2019) for application RDCS2016-0012.

WHEREAS, said development agreement request was considered by the Planning Commission at its regular meeting of November 22, 2016, at which time the City Council approval of development agreement application, DA-16-01: Walnut Grove-Newland; and

WHEREAS, said development agreement request was considered by the City Council at its regular meeting of December 14, 2016, at which time the Planning Commission recommended City Council approval of development agreement application, DA-16-01: Walnut Grove-Newland; and

WHEREAS, said development agreement amendment request was considered by the Planning Commission at its regular meeting of March 28, 2016, at which time the Planning Commission recommended City Council approval of development agreement application, AAE2017-0010; 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 project is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The Planning Commission of the City of Morgan Hill hereby finds that, on the basis of the whole record before it (including any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Planning Commission's independent judgement and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the Resolution. The custodian of the documents or other material which constitute the record shall be the Community Development Department.
- SECTION 3.** **ADOPTION OF DEVELOPMENT AGREEMENT AMENDMENT.** The Planning Commission hereby recommends to the City Council adoption of the Development Agreement Amendment AAE2016-0010: Walnut Grove-Newland. The Planning Commission recommends approval of the development agreement as contained in the attached Exhibit "A."

PASSED AND ADOPTED THIS 28TH DAY OF MARCH, 2016, 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

Date: _____

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Morgan Hill
Community Development Agency
17575 Peak Avenue
Morgan Hill, CA 95037

RECORDING FEES EXEMPT
PURSUANT TO GOVERNMENT
CODE SECTION 27383

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF MORGAN HILL
AND
NEWLAND HOMES
REGARDING
THE WALNUT GROVE DRIVE
SINGLE FAMILY RESIDENTIAL DEVELOPMENT PROJECT

RESIDENTIAL DEVELOPMENT AGREEMENT
 BY AND BETWEEN
 THE CITY OF MORGAN HILL
 AND
 NEWLAND HOMES
 REGARDING THE
 CUSTOM LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT PROJECT

This Development Agreement ("**Agreement**") is entered into on the below-stated "**Effective Date**" by and between the City of Morgan Hill, a California municipal corporation, (hereinafter "**City**"), and Newland Homes, and their successor and assigns (hereinafter, collectively, "**Developer**"), pursuant to section 65864 *et seq.* of the Government Code of the State of California and City's police powers. City and Developer are, from time to time, also hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**."

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other considerations, the value and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code sections 65864 *et seq.* ("**Development Agreement Statute**"), which regulates development agreements with any person having a legal or equitable interest in real property providing for the development of that property and establishes certain development rights in the property. In accordance with the Development Agreement Statute, and by virtue of its police powers, City has the authority to enter into development agreements, and has reflected that authority in its Morgan Hill Municipal Code (Chapter 18.80 *et seq.*) ("**Enabling Ordinance**"). This Agreement has been drafted and processed pursuant to the Development Agreement Statute and the Enabling Ordinance.

B. Developer currently has a legal and/or equitable interest in the Property.

C. Developer proposes to plan, develop, construct, operate and maintain the Project on the Property (as such terms are defined herein).

D. As of the Effective Date, various land use regulations, allotments, entitlements, grants, permits and other approvals have been adopted, issued, and/or granted by City relating to the Project (collectively "**Existing Approvals**"), including without limitation, all of the following:

1. Five building allotments (Fiscal Year 2017-18) pursuant to the RDCS, and conditions attached to the award of such allotments; and
2. Four building allotments (Fiscal Year 2018-19) pursuant to the RDCS, and conditions attached to the award of such allotments

The existing approvals are more particularly described in the resolutions adopting the Existing Approvals.

E. For the reasons recited herein, Developer and City have determined that the Project is the type of development for which this Agreement is appropriate. This Agreement will help to eliminate uncertainty in planning, provide for the orderly development of the Project consistent with the planning goals, policies, and other provisions of the City's General Plan and City's Municipal Code, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.

F. On January 13, 2016 and January 10, 2017, the Morgan Hill Planning Commission approved allotments for the Project as set forth in the Developer's application for a development allotment pursuant to Chapter 18.78 of the Morgan Hill Municipal Code ("**Residential Development Control System**", or "**RDCS**"). This Agreement serves to secure in a permanent and enforceable manner the public benefits included in the Developer's application as required under Section 18.78.060A of Chapter 18.78 of the Code.

G. On November 22, 2016 and March 28, 2017, following a duly noticed and conducted public hearing, the Planning Commission of the City ("**Planning Commission**"), the hearing body for purposes of the Development Agreement Statute and the Enabling Ordinance, adopted Resolutions that affirmed CEQA compliance for this Agreement, adopted findings that this Agreement is consistent with the City's General Plan and the Existing Approvals and recommended that this Agreement be approved by the City Council.

ARTICLE 1

ADMINISTRATION

1.01 Effective Date. On ____, 20__, following a duly noticed and conducted public hearing, the Morgan Hill City Council ("City Council") introduced Ordinance No. ____, an ordinance that affirms CEQA compliance, that adopts findings that this Agreement is consistent with the City's General Plan and the Existing Approvals, that approves this Agreement, and that directs this Agreement's execution by City ("Approving Ordinance"). The City adopted the Approving Ordinance on ____, 20__, the Approving Ordinance became effective thirty (30) days later, and the Parties signed the Agreement. The "Effective Date" in this Agreement shall be the date that the Approving Ordinance became effective.

1.02 Definitions.

(a) The following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

(1) "**Applicable Law**" shall have that meaning set forth in Section 2.01(a) of this Agreement.

(2) "**Existing Approvals**" shall have that meaning set forth in Recital paragraph D of this Agreement.

(3) **"Existing City Laws"** shall mean all City ordinances, resolutions, rules, regulations, guidelines, motions, practices and official policies governing land use, zoning and development, RDCS, permitted uses, density and intensity of use, maximum height, bulk and size of proposed buildings, and other City land use regulations in force and effect on the Effective Date of this Agreement.

(4) **"Impact Fees"** shall mean those fees imposed so that developments bear a proportionate share of the cost of public facilities and service improvements that are reasonably related to the impacts and burdens of the Project, adopted pursuant to Morgan Hill Municipal Code Chapter 3.56 and California Government Code Section 66001 et seq.

(5) **"Legal Effect"** shall mean the ordinance, resolution, permit, license or other grant of approval has been adopted by City and has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction, and all applicable administrative appeal periods and statutes of limitations have expired.

(6) **"New City Laws"** shall mean any and all City ordinances, resolutions, orders, rules, official policies, standards, specifications and other regulations, whether adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not a Subsequent Approval, that takes **"Legal Effect"** after the Effective Date of this Agreement, and that applies City wide.

(7) **"Project"** mean the development containing a residential use, as more particularly described in the Residential Development Control System Application MMC-15-10: Walnut Grove-Newland . Any reference in this Agreement to the "Project" shall mean and include the "Property".

(8) **"Project Approvals"** mean, collectively, the Project's Existing Approvals and the Subsequent Approvals.

(9) **"Property"** shall mean that certain real property consisting of approximately 0.725 acres located within the City, as more particularly described and shown on **Exhibit A** to this Agreement.

(10) **"RDCS"** means the Residential Development Control System set forth in Chapter 18.78 of the Morgan Hill Municipal Code.

(11) **"Second Notice"** shall have that meaning set forth in Section 4.07(c) of this Agreement.

(12) **"Subdivision Document"** means, pursuant to Government Code section 66452.6(a) and this Agreement, the term of any tentative map, vesting tentative map, parcel map, vesting parcel map, final map or vesting final maps, or any such new map or any amendment to any such map, or any resubdivision.

(13) **"Subsequent Approvals" and "Subsequent Approval"** mean those City permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of

the Project, that are sought by Developer, and that are granted by City after the City Council adopts the Approving Ordinance (defined below), including without limitation, a City Resolution of Application for Annexation and subdivision maps and any Subdivision Document.

(b) To the extent that any defined terms contained in this Agreement are not defined above, then such terms shall have the meaning otherwise ascribed to them elsewhere in this Agreement, or if not in this Agreement, by controlling law.

1.03 Term/Subdivision Documents.

(a) The term ("**Term**") of this Agreement shall commence on the Effective Date, and then shall continue (unless this Agreement is otherwise terminated, modified or extended as provided in this Agreement) until the earliest of (1) the loss of all development allocation for the Project under the RDCS, if applicable, (2) the issuance of a certification of occupancy for all units in the Project or (3) ten (10) years plus one day after the Effective Date; provided however that Developer's obligations under Sections 2.03 and 2.04 shall survive the termination of this Agreement until such obligations are fully performed and completed in accordance with this Agreement.

(b) Any Subdivision Document relating to the Project shall automatically be extended to and until the end of the Term of this Agreement. The termination of this Agreement shall have no effect on the remaining term of a Subdivision Document that has not yet expired. Any improvement agreement entered into pursuant to the Subdivision Map Act (Gov. Code §§ 66410 *et seq.*) or other State or local regulation shall have that term determined by City. If this Agreement terminates for any reason prior to the expiration of vested rights otherwise given under the Subdivision Map Act to any vesting tentative map, vesting parcel map, vesting final map or any other type of vesting map on the Property (or any portion of the Property) (collectively, "**Vesting Map**"), such Vesting Map approved during the Term of this Agreement shall NOT extend the Applicable Law beyond the stated Term of this Agreement and the City rules, regulations and official policies applicable to that portion of the Property covered by such Vesting Map shall become those City rules, regulations and official policies in effect as of the date of the termination of this Agreement; provided, however, that City and Developer may agree to an extension of the Term of this Agreement with respect to the area covered by any such Vesting Map.

(c) If any "**Third Party Challenge**" (as that term is defined in Section 4.06(a) of this Agreement) is filed, then the Term of this Agreement shall be tolled for the period or periods of time from the date of the filing of such litigation until the conclusion of such litigation by dismissal or entry of a final judgment ("**Litigation Tolling**"). Notwithstanding the foregoing, regardless of the number of Third Party Challenges that may be filed during the Term of this Agreement, the sum total of such Litigation Tolling shall not exceed five (5) years. The filing of any Third Party Challenge shall not delay or stop the development, processing or construction of the Project, or the approval or issuance of any Project Approvals, unless enjoined or otherwise controlled by a court of competent jurisdiction. The Parties shall not stipulate to the issuance of any such order unless mutually agreed to.

ARTICLE 2

APPLICABLE LAW

2.01 Applicable Law—Generally.

(a) As used in this Agreement, "**Applicable Law**" shall mean all of the items listed below in this Section 2.01, subject only to the conditions set forth in Section 2.02(c) of this Agreement. The order of their importance is the order in which they are listed (with highest importance listed first, second most important listed second, etc.); in the event of a conflict between them, their order shall determine which one controls (the one listed higher controlling over the one listed lower):

(1) All the provisions, terms and conditions of this Agreement.

(2) The Existing Approvals. Developer hereby waives any legal or equitable right to challenge administratively or judicially any Existing Approvals including conditions of those Existing Approvals. Such waiver includes any requirements for notice, acts of protest and/or right to litigation pursuant to the Mitigation Fee Act and/or any other applicable law.

(3) The Subsequent Approvals, provided such Subsequent Approvals are:

- (i) In compliance with all controlling California law;
- (ii) Mutually agreed to by the Parties; and
- (iii) Duly enacted by City.

(4) The "Existing City Laws" that are not in conflict with this Agreement and the Project Approvals.

(5) Any "New City Laws" Developer is subject to under this Agreement; for example, as provided in, but not limited to, Section 2.09. Additionally, any New City Laws to which Developer elects to be subject pursuant to Section 2.09(e).

(b) The Parties acknowledge that the Subsequent Approvals may be processed in stages and therefore one or more Subsequent Approvals may be adopted and approved before other Subsequent Approvals needed for development of the Project are adopted and approved by City.

(c) The Parties shall cooperatively assemble all of the necessary documents to memorialize, to the best of their abilities, the Project Approvals, Existing City Laws, and the terms and conditions contained in this Agreement to assist Developer to maintain the documents assembled and to provide a continuing reference source for the approvals granted and the ordinances, policies and regulations in effect on the Effective Date of this Agreement.

(d) Nothing contained herein will give Developer a vested right to develop the described Project or to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

(e) Nothing contained herein will give Developer a vested right to develop the described Project absent valid and unexpired development allocations under the RDCS.

2.02 Vested Right to Applicable Law.

(a) During the Term of this Agreement, Developer shall have the vested right to develop the Project subject only to, and in accordance with, the Applicable Law, and during the Term of this Agreement City shall have the right to regulate the development and use of the Project subject only to, and in accordance with, the Applicable Law. Nothing contained herein will give Developer a vested right to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

(b) Under this Agreement, the Applicable Law will be an expanding body of law, such as, for example, when Subsequent Approvals are granted by City, and/or when Developer becomes subject to a New City Law pursuant to this Agreement.

(c) If the RDCS is applicable to the Project or any portion thereof, the vested rights to develop the Project according with Applicable Law and this Agreement shall be vested only to those residential units having a RDCS allotment. If the Project defined in this Agreement includes units that have not been awarded RDCS allotments ("Pending Units"), the RDCS allotments for the Pending Units shall be a necessary Subsequent Approval and this Agreement shall be amended to reflect the application and conditions attaching to the RDCS allotments for the Pending Units.

(d) Developer agrees that the terms and conditions of this Agreement and conditions of approval issued pursuant to this Agreement shall govern and dictate the vesting of the Developer's right to develop in lieu of any other instrument of vesting, including any vesting tentative map or any other agreement, instrument or document purporting to vest any right of development. Developer agrees to waive any vesting rights by operation of any otherwise applicable city, state or federal law.

2.03 Project Impacts and Costs.

(a) Agreement Subject to Project Mitigation Requirements. Notwithstanding any other express or implied term or condition of this Agreement (or the Approvals) to the contrary, throughout the Term of this Agreement, the full and complete mitigation of all environmental (including any mitigation measure adopted pursuant to CEQA), physical, fiscal and other impacts of the Project and the Property on the community and on the City of Morgan Hill and its services, facilities, operations and maintenance (collectively, "**Project Mitigation**") shall be borne by and shall be the sole and exclusive responsibility of the Project (and the Developer who is the owner of same). Such Project Mitigation may be conditions of any Applicable Law or Project Approval and may include a mix of different approaches, including without limitation, Developer construction of and/or financing of such services, facilities, operations and maintenance through the payment of impact fees or other fees, taxes, levies, assessments, or other financing

mechanisms including without limitation, reimbursement agreements, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Assessment Districts, Tax-Exempt and Taxable Financing Mechanisms, Maintenance Districts, Homeowners Associations, and participation in the Statewide Communities Infrastructure Program (collectively, "**Financing Mechanisms**"). The necessary scope and extent of such Project Mitigation, and which combination of Financing Mechanisms should be employed relating to such Project Mitigation to assure success of the Project Mitigation, shall be determined by City, in its sole and exclusive discretion, pursuant to appropriate City ordinance, resolution, regulations or procedures, taking into account and guided by the pre-existing rights of others in the existing and future public services and facilities (including their operations and maintenance) that Developer may seek to use. If no Financing Mechanism is available to fund the Project Mitigation, then the Project shall not progress forward.

(b) Impact Fees. In addition to any agreed-upon Project-specific requirements as set forth in Section 2.04 and as part of the Project's sole and exclusive obligation (and the Developer's as the owner of same) to cover Project Mitigation, Developer shall pay all Impact Fees and in the amounts in legal effect at the time any such Impact Fees become due and payable as provided for in the City's Municipal Code.

(c) Processing Fees. In addition to any agreed-upon Project-specific requirements as set forth in Section 2.04, the Project (including Developer as owner of same) shall be responsible for the costs to City of processing any and all Developer-requested land use approvals, including without limitation, building permits, plan checks, environmental studies required under CEQA and other similar requests for City permits and entitlements, when such costs are incurred by City. City shall impose those funding requirements needed to ensure that the processing costs to the City are fully covered by the Project (including Developer as owner of same). Further, if additional, accelerated, or more frequent inspections are requested by Developer of City than would otherwise take place in City's ordinary course of business, then City may either hire additional contract inspectors, plan checkers, engineers or planners, or City may hire a full or part time employee. If City hires additional contractors, then Developer shall reimburse City, on a monthly basis in arrears, the cost to City of hiring such additional contract inspectors, plus Developer shall pay to City an additional ten percent (10%) of such cost to City on the same payment schedule. City shall use such additional 10% to defray administrative costs. If City hires a full or part time employee, then Developer shall reimburse City, on a monthly basis, in arrears, for a pro rata share of the total cost to the City of such employee, plus ten percent (10%) for administrative costs, for the period from hire to the end of the Term of this Agreement.

2.04 RDCS and Other Specific Project-Specific Requirements.

(a) The following specific requirements set forth in Exhibit C are voluntarily assumed by Developer in return for benefits derived from the City's RDCS building allotment approval program. These requirements are not Project Mitigation within the meaning of Section 2.03 of this Agreement or otherwise imposed to mitigate impacts of the Project. Developer hereby agrees that these requirements are not subject to credit, refund or reimbursement or prohibition under otherwise applicable city, state or federal law and waives any such right to credit, refund, reimbursement or prohibition. Instead, these requirements are voluntarily assumed by Developer in return for benefits derived from the RDCS. For example, under the RDCS, awarding of

residential allotments to new development is a competitive process based on a point system. Additional points can be awarded to a development proposal that is willing to pay fees in addition to those already required to mitigate its impacts. The payment of these additional fees results in additional points being awarded to the development proposal under the RDCS, thereby allowing the development proposal to secure a higher score under the RDCS, which in turn may provide a high enough score for the development proposal to secure allotments. The obligation that results (to pay such additional fees and to otherwise abide by the requirements derived from that RDCS process in return for additional points under the RDCS) are enforced through this Agreement.

(b) The Developer's RDCS application - MMC-15-10: Walnut Grove-Newland approved January 13, 2016 and approval actions (as reflected in the official records, including agendas and minutes of the City Planning Commission and City Council) shall be incorporated into this Agreement; provided however, the Project under this Agreement may constitute only part of the development or Property to which said RDCS application and approvals apply and cover only part of the allotments awarded to the Property or development. Attachment A identifies the portion of the Property, the phase of the development and the number of allotments that the Project and this Agreement covers. If this Agreement covers multiple phases of a development on the Property, then Attachment also identifies the phase during which each of the specific requirements shall apply.

2.05 Construction Codes.

With respect to the development of any or all of the Project or the Property, Developer shall be subject to the California Building Code and all those other State-adopted construction, fire and other codes applicable to improvements, structures, and development, and the applicable version or revision of said codes by local City action (collectively referred to as "**Construction Codes**") in place at that time that a plan check application for a building, grading or other permit subject to such Construction Codes is submitted to City for approval, provided that such Construction Codes have been adopted by City and are in effect on a City-wide basis.

2.06 Timing of Development.

(a) Securing Building Permits and Beginning Construction. Developer agrees to secure building permits and to begin construction of the Project in accordance with the time requirements set forth in the Construction Codes and the RDCS, if applicable, as these exist on the Effective Date. In the event Developer fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the RDCS, the RDCS allotment shall expire pursuant to Section 18.78.125 of Chapter 18.78 of the Morgan Hill Municipal Code.

(b) Progress Reports Until Construction of Project is Complete. Developer shall make reports to the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of off-site and landscaping contracts or documents for purpose of determining the amount of any bond to secure performance under said contracts, Developer agrees

to furnish such documents to the City and the City agrees to maintain the confidentiality of such documents and not disclose the nature or extent of such documents to any person or entity in conformance with the requirements of the California Public Records Act.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units in the Project, the City shall provide Developers with an instrument in recordable form certifying completion of the entire project. Upon issuance of the certificate of completion for 100% of the total units of the Project, this Development Agreement shall be deemed terminated as to the entire Project.

2.07 Improvements.

In any instance where Developer is required to install improvements (including those set forth in Exhibit C), Developer shall obtain City approval of the plans and specifications and the timing and manner of the installation of improvements, and provided Developer has supplied all information required by City, City shall review and act on the application for such approval with good faith and in a reasonable manner. Where the actual cost of any improvement exceed Developer's estimated cost or commitment, Developer shall be solely responsible for all improvements costs in excess of those approved by City unless otherwise provided for in a reimbursement agreement.

2.08 Overcapacity, Oversizing.

(a) City may require Developer to construct on-site and off-site improvements in a manner that provides for oversizing or overcapacity so that the constructed improvement will serve other development or residents or facilities and services outside of the Project ("**Oversizing**"). Such Oversizing shall be reasonable in scope. The Parties recognize that the City shall not require any Oversizing from Developer except in connection with the Project Approvals and in accordance with provisions of the Subdivision Map Act and Applicable Law.

(b) Unless no credit or reimbursement is owed to Developer pursuant to Section 2.04 of this Agreement, Developer's right to receive credits and reimbursements for Oversizing or excessive payment or performance shall be determined and processed pursuant to the City's Municipal Code and controlling practices (relative to credits and reimbursements) on the Effective Date.

2.09 New City Laws.

(a) City may apply any New City Law to the Project that is not in conflict with this Agreement and the Applicable Law it describes. City shall not apply any New City Law to the Project that is in conflict with this Agreement and the Applicable Law it describes, nor otherwise reduces the development rights or assurances provided by this Agreement. City shall not apply to the Project nor Property any no-growth or slow-growth ordinance, measure, policy, regulation or development moratorium either adopted by City or by a vote of the electorate and whether or not by urgency ordinance, interim ordinance, initiative, referendum or any other change in the laws of the City by any method or name which would alter the Applicable Law that may stop, delay, or effect the rate, timing or sequence of development.

(b) Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, a New City Law shall be deemed to be in conflict with this Agreement or the Applicable Law or to reduce the development rights provided hereby if the application to the Project would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which affects or applies to the Project:

(1) Change any land use designation or permitted use of the Property allowed by the Applicable Law or limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the total number of residential dwelling units, square footage, floor area ratio, height of buildings, or number of proposed non-residential buildings, or other improvements;

(2) Limit or control the availability of public utilities, services, or facilities otherwise allowed by the Applicable Law;

(3) Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Project in any manner, or take any action or refrain from taking any action that results in Developer having to substantially delay construction of the Project or require the acquisition of additional permits or approvals by the City other than those required by the Applicable Law;

(4) Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations in the Existing Approvals and the Subsequent Approvals (as and when they are issued);

(5) Limit the processing of Subsequent Approvals.

(c) If City determines that it has the right under this Agreement to impose/apply a New City Law on the Property/Project, it shall send written notice to Developer of that City determination ("**Notice of New City Law**"). Upon receipt of the Notice of New City Law, if Developer believes that such New City Law is in conflict with this Agreement, Developer may send written notice to the City of the alleged conflict within thirty (30) days of receipt of City's Notice of New Law ("**Objection to New City Law**"). Developer's Objection to New City Law shall set forth the factual and legal reasons why Developer believes City cannot apply the New City Law to the Property/Project. City shall respond to Developer's Objection to New City Law ("**City Response**") within thirty (30) days of receipt of said Developer Objection to New City Law. The City Response shall set forth the factual and legal reasons why City believes it can apply the New City Law to the Project. Thereafter, the Parties shall meet and confer within thirty (30) days of the date of Developer's receipt of the City Response (the "**Meet and Confer Period**") with the objective of attempting to arrive at a mutually acceptable solution to this disagreement. Within fifteen (15) days of the conclusion of the Meet and Confer Period, City shall make its determination, and shall send written notice to Developer of that City determination. If City determines to "impose/apply" the New City Law to the Project, then Developer shall have a period of ninety (90) days from the date of receipt of such City determination within which to file legal action challenging such City action. In other words, a 90-day statute of limitations regarding Developer's right to judicial review of the New City Law shall commence upon Developer's receipt of City's determination following the conclusion of the Meet and Confer Period. If upon

conclusion of judicial review of the New City Law (at the highest judicial level sought and granted), the reviewing court determines that Developer is not subject to the New City Law, such New City Law shall cease to be a part of the Applicable Law, and City shall return Developer to the position Developer was in prior to City's application of such New City Law (*e.g.*, City return fees, return dedications, etc.). The above-described procedure shall not be construed to interfere with City's right to adopt or apply the New City Law with regard to all other areas of City (excluding the Project).

(d) Developer in its sole and absolute discretion may elect to have applied to the Project a New City Law that is not otherwise a part of the Applicable Law, subject to the limitations set forth in this subdivision (d). In the event Developer so elects to be subject to a New City Law that is not otherwise a part of the Applicable Law, Developer shall provide notice to City of that election and thereafter such New City Law shall be part of the Applicable Law. In no event shall any New City Law become part of the Applicable Law if it would relieve Developer from, or impede Developer's compliance with, Developer's obligations under this Agreement, including without limitation Developer's obligations of full "Project Mitigation" under Section 2.03 or the "RDCS and Other Project Specific Requirement" under Section 2.04. Further, for the purposes of this Agreement, the "New City Laws" Developer may elect to be subject to pursuant to this Section shall not mean nor include any or all individual development agreements with other developers (including without limitation such development agreements' term and conditions, exhibits, etc.) executed before or after the Effective Date of this Agreement.

(e) City shall not be precluded from adopting and applying New City Laws to the Project to the extent that such New City Laws are specifically required to be applied by State or Federal laws or regulations, and implemented through the Federal, State, regional and/or local level) ("**Mandated New City Laws**"), including without limitation those provisions in the Development Agreement Statute concerning property located in a flood hazard zone (Gov. Code § 65865.5), or that such New City Laws are necessitated by or arise from a declaration of City, local, state or federal declaration of a state of emergency.

(f) In the event that an administrative challenge and/or legal challenge (as appropriate) to a Mandated New City Laws preventing compliance with this Agreement is brought and is successful in having the Mandated New City Law determined to not apply to this Agreement, this Agreement shall remain unmodified and in full force and effect.

ARTICLE 3

PROCESSING

3.01 Processing.

(a) This Agreement does not provide Developer with any right to the approval of Subsequent Approvals nor to develop or construct the Project beyond that which is authorized in the Existing Approvals. For any Subsequent Approvals necessary for the Project, this Agreement simply provides a process by which such Subsequent Approvals may be processed by Developer, and later included into this Agreement, if and only if such Subsequent Approvals are compliant with all controlling California law (including proper Planning and Zoning Law and

CEQA compliance), have secured approval of the Parties, and are adopted/approved by City, which shall retain all lawful discretion in this regard. That public review process is ongoing, and following the City's adoption of this Agreement, that public review process shall continue. Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit the discretion of City or any of its officers or officials with regard to the Project Approvals that legally require the exercise of discretion by City. City's discretion as to the granting of Subsequent Approvals shall be the discretion afforded by the Applicable Law.

(b) Upon submission by Developer of any and all necessary and required applications for Subsequent Approvals and payment of any and all appropriate processing and other fees as provided in this Agreement, City shall use its best efforts to promptly commence and diligently complete all steps necessary to acting on the requested Subsequent Approvals, including, but not limited to, (i) the holding of any and all required public hearings and notice for such public hearings, and (ii) the granting of the requested approval to the extent that it is consistent with Applicable Law.

3.02 Significant Actions by Third Parties Necessary to Implement the Approvals.

(a) At Developer's sole discretion, Developer shall apply for such other permits, grants of authority, agreements, and other approvals from other private and/or public and quasi-public agencies, organizations, associations or other entities ("**Other Entity**") as may be necessary to the development of, or the provision of services and facilities to, the Project ("**Other Permits**").

(b) City shall cooperate with Developer in its endeavors to obtain any Other Permits and shall, from time to time, at the request of Developer, join with Developer in the execution of such permit applications and agreements as may be required to be entered into with any such other agency.

(c) In the event that any such Other Permit is not obtained from an Other Entity within the time permitted by law for such other entity to act and such circumstance materially deprives Developer of the ability to proceed with development of the Project or any portion thereof, or materially deprives City of a bargained-for public benefit of this Agreement, then, in such case, and at the election of either party, Developer and City shall meet and confer with the objective of attempting to mutually agree on solutions that may include alternatives, Subsequent Approvals, or an amendment(s) to this Agreement to allow the development of the Project to proceed with each Party substantially realizing its bargained-for benefit therefrom.

3.03 Administrative Amendments.

(a) Upon the written request of Developer for an amendment or modification of this Agreement or a Project Approval, the City Manager or his designee shall determine: (1) whether the requested amendment or modification is minor; and (2) whether the requested amendment or modification is consistent with this Agreement and the Applicable Law. If the City Manager or his designee finds that the proposed amendment or modification is both minor and consistent with this Agreement and the Applicable Law, and provided further that the Project and the Developer are otherwise in compliance with all agreements and approvals related to the project,

the City Manager or his designee may approve the proposed amendment or modification without notice and public hearing. Such minor amendments or modifications approved pursuant to this Section shall not constitute subsequent discretionary approvals triggering further CEQA review. Any minor amendment must be made in writing signed by the City Manager (and approved by the City Attorney) of the City and by the Developer. After approval and signatures from the City Manager and the Developer, the amendment shall be recorded with the Santa Clara County Clerk Recorder.

(b) For the purpose of this Agreement, a minor amendment shall include any of the following:

(1) Any extension, postponement or amendment of the time for commencement of construction of the Project that is concurrent and to the same extent as the time extension granted pursuant to an "exception to the loss of allotment" granted by the City Council pursuant to Section 18.78.125 of Chapter 18.78 of the Morgan Hill Municipal Code, or

(2) The addition of subsequent allocations granted as part of an "Ongoing Project" providing all of the following criteria and conditions are met:

(A) Those subsequent allocations are and shall be obligated to meet all of the Project Requirements and Commitments (including without limitation RDCS set forth in Exhibit D); and

(B) Such subsequent allocations are and shall be added to Exhibit B and Exhibit C, with time provisions as may be adjusted pursuant to the year in which such subsequent allocations are awarded to the Project as an "Ongoing Project" and with reference to such additional Project Phase.

(c) A "minor amendment" shall not include any of the following:

(i) Any material amendment or modification, or elimination of provisions required pursuant to the Morgan Hill Municipal Code and California Government Code Section 65865.2, or its successor legislation, including provisions relating to: (1) the duration or term of this Agreement, (2) the permitted uses of the subject property, (3) the density or intensity of uses, (4) the maximum height and size of proposed buildings, (5) provisions for reservation or dedication of land for public purposes, (6) general location of the uses or proposed buildings or (7) the relation of the project to adjacent properties; or

(ii) Any material amendment or modification, or eliminations of provisions set forth in Article 2 of this Agreement or Exhibit C to this Agreement or any reduction in fees or Project Mitigations hereunder.

3.04 Amendments.

Any request by Developer for an amendment or modification to this Agreement or a Project Approval that is determined to be not minor by the City Manager or his designee shall be subject to the applicable substantive and procedural provisions of the City's General Plan, zoning, subdivision, and other applicable land use ordinances and regulations (i.e., City review and approval) in effect when such an amendment or modification request is approved.

ARTICLE 4

DEFAULT, VALIDITY PROVISIONS, ASSIGNMENT

4.01 Defaults.

(a) Any failure by City or Developer to perform any material term or provision of this Agreement, which failure continues uncured for a period of sixty (60) days (or 150 days for a Mortgagee (as that term is defined in Section 4.10(a)) following written notice of such failure from the other Party (unless such period is extended by written mutual consent) ("**Notice of Default**"), shall constitute a default under this Agreement ("**Default**"). Any Notice of Default shall specify the nature of the alleged failure and, where appropriate, the manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 60-day period (or 150 days for a Mortgagee), then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period (or 150 days for a Mortgagee). If the alleged failure is cured, then no Default shall exist and the noticing Party shall take no further action. If the alleged failure is not cured, then a Default shall exist under this Agreement and the non-defaulting Party may exercise any of the remedies available under this Article.

(b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of written notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default. 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.

4.02 Actions During Cure Period.

(a) During any cure period and during any period prior to any delivery of notice of failure or default, the Party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter and pending its resolution or formal termination of the Agreement as provided herein.

(b) City will continue to process in good faith development applications during any cure period, but need not approve any such application if it relates to an alleged default of Developer hereunder.

4.03 Resolution of Disputes.

(a) In the event either Party is in default under the terms of this Agreement, the other Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided herein; (iii) pursue judicial remedies as provided for herein; and/or (iv) terminate this Agreement.

(b) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default by another Party to this Agreement, to enforce any covenant or agreement herein, to enjoin any threatened or attempted violation hereunder, or to seek specific performance. It is expressly understood and agreed that the sole legal remedy available to Developer for a breach or violation of this Agreement by City shall be a legal action in mandamus, specific performance, and/or other injunctive or declaratory relief to enforce the provisions of this Agreement, and that Developer shall not be entitled to bring an action for damages including, but not limited to, lost profits, consequential damages or other economic damages. For purposes of instituting a legal action under this Agreement, any City Council determination under this Agreement shall be deemed a final agency action.

(c) The Parties agree to meet and confer regarding any dispute, in an effort to agree on utilizing Judicial Arbitration Mediation Services ("JAMS") for Alternative Dispute Resolution ("ADR"). However, no party shall be required to use JAMS or ADR.

4.04 Periodic Review.

(a) The City shall review this Agreement at least four times per year and on a schedule to assure compliance with the RDCS, at which time the Developer is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such periodic review, the City finds and determines, on the basis of substantial evidence, that Developer has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded under the RDCS.

4.05 Force Majeure Delay, Extension of Times of Performance.

(a) Performance by any Party hereunder shall be excused, waived or deemed not to be in default where delays or defaults are due to acts beyond a Party's control such as war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, unexpected acts of governmental entities other than City, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by the Developer, City, or any other person or entity) (each a "**Force Majeure Event**").

(b) Any Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon

the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, any Party may take action as permitted in this Agreement.

4.06 Third Party Legal Actions.

(a) In the event of any administrative, legal or equitable action or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, any Project Approvals, or the sufficiency of any environmental review under CEQA ("**Third Party Challenge**"), the Parties shall cooperate with each other in good faith in the defense of any such challenge.

(b) City shall have the option to defend such Third Party Challenge or to tender the complete defense of such Third Party Challenge to the Developer ("**Tender**"). If City chooses to defend the Third Party Challenge or Developer refuses City's Tender, City shall control all aspects of the defense and Developer shall pay City's attorneys fees and costs (including related court costs).

(c) If Developer accepts City's Tender, Developer shall control all aspects of the defense and shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge. If City wishes to assist Developer when Developer has accepted the Tender, Developer shall accept that assistance and City shall pay City's own attorneys fees and costs (including related court costs) ("**City Costs**"), and Developer shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge (such third party fees and costs shall not include City Costs).

(d) If any part of this Agreement or any Project Approval is held by a court of competent jurisdiction to be invalid, the City shall: (1) use its best efforts to sustain and/or re-enact that part of this Agreement and/or Project Approval; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement, and then adopting or re-enacting such part of this Agreement and/or Project Approval as necessary or desirable to permit execution of this Agreement and/or Project Approval.

4.07 Estoppel Certificate.

(a) Any Party may, at any time, and from time to time, deliver written notice to any other Party, and/or to the Developer's lender, requesting such Party to certify in writing that, to the knowledge of the certifying Party:

(1) This Agreement has not been amended or modified either orally or in writing or if so amended, identifying the amendments.

(2) The Agreement is in effect and the requesting Party is not known to be in default of the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults.

(b) This written certification shall be known as an "**Estoppel Certificate.**" A Party receiving a request hereunder shall execute and return such Estoppel Certificate within ten (10) days following the receipt of the request, unless the Party, in order to determine the appropriateness of the Estoppel Certificate, promptly commences and proceeds to conclude an Annual Review. The Parties acknowledge that an Estoppel Certificate may be relied upon by Assignees and other persons having an interest in the Project, including holders of mortgages and deeds of trust. The City Manager shall be authorized to execute an Estoppel Certificate for City.

(c) If a Party fails to deliver an Estoppel Certificate within the ten (10) day period, as provided for in Section 4.07(b) above, the Party requesting the Estoppel Certificate may deliver a second notice (the "**Second Notice**") to the other Party stating that the failure to deliver the Estoppel Certificate within ten (10) working days following the receipt of the Second Notice shall constitute conclusive evidence that this Agreement is without modification and there are no unexcused defaults in the performance of the requesting Party. Failure to deliver the requested Estoppel Certificate within the ten (10) working day period shall then constitute conclusive evidence that this Agreement is in full force and effect without modification and there are no unexcused defaults in the performance of the requesting Party.

4.08 Assignment/Covenants Run with the Land.

(a) Right to Assign. Developer shall have the right to sell, assign, or transfer this Agreement with all its rights, title and interests therein to any person, firm or corporation acquiring an interest in the Project or Property (or portion thereof associated with the Project) at any time during the term of this Agreement ("**Assignee**"). Developer shall provide City with written notice of any assignment or transfer of all or a portion of the Property no later than thirty (30) days prior to such action, which notice shall include specific portions of the Project or Property to be assigned and the proposed form of assignment. Any proposed assignment shall be subject to the express written consent of City, which consent shall not be unreasonably withheld, delayed or conditioned. City's approval of a proposed assignment or transfer shall be based upon the proposed assignee's reputation, experience, financial resources and access to credit and capability to successfully carry out the development of the Property to completion. The written assignment, assumption or release of rights or obligations with respect to a portion of the Project or of the Property shall specify the portion of the Project or Property and the rights assigned and obligations assumed, and shall be approved by the City Attorney. The express written assumption by an Assignee of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred shall relieve Developer of such obligations so assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form as may be approved by the City Attorney.

(b) Release Upon Assignment. Upon assignment, in whole or in part, and the express written assumption by the Assignee of such assignment, of Developer's rights and interests under this Agreement, Developer shall be released from its obligations with respect to the

Property/Project (or any portion thereof), and any lot, parcel, or portion thereof so assigned to the extent arising subsequent to the effective date of such assignment. A default by any Assignee shall only affect that portion of the Property/Project owned by such Assignee and shall not cancel or diminish in any way Developer's rights or obligations hereunder with respect to the assigned portion of the Property/Project not owned by such Assignee. The Assignee shall be responsible for the reporting and annual review requirements relating to the portion of the Property/Project owned by such Assignee, and any amendment to this Agreement between City and Assignee shall only affect the portion of the Property/Project owned by such Assignee.

(c) Covenants Run with the Land. This Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants and obligations shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Project and/or Property, any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable during the Term as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including, but not limited to Civil Code section 1468. This Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee, or any other successor of Developer acquiring a completed residential unit comprising all or part of the Project ("**Consumer**") unless such Consumer is specifically bound by a provision of this Agreement or by a separate instrument or Agreement.

4.09 Encumbrances on the Property.

The parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner, at Developer's sole and absolute discretion, from encumbering the Property, or any portion thereof or any improvements thereon with any Mortgage securing financing with respect to the construction, development, use or operation of the Project. Mortgagee may require certain modifications to this Agreement, and City shall negotiate in good faith any such request for modification or subordination.

4.10 Obligations and Rights of Mortgage Lenders.

(a) The holder of any mortgage, deed of trust or other security arrangement with respect to the Property, or any portion thereof ("**Mortgagee**"), shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all of the terms and conditions of this Agreement that pertain to the Property or such portion thereof in which it holds an interest.

(b) Each Mortgagee shall be entitled to receive written notice from City of results of the annual review to be done pursuant to Section 4.04 and any default by Developer under this Agreement, provided such Mortgagee has informed City of its address for notices. Each Mortgagee shall have a further right, but not an obligation, to cure such default in accordance with the default and default cure provisions in Sections 4.01, 4.02, and 4.03 of this Agreement. In the event Developer (or any permitted Assignee) becomes subject to an order for relief under any chapter of Title 11 of the United States Code (the "**Bankruptcy Code**"), the cure periods provided

for a Mortgagee in Section 4.01(a) of this Agreement shall be tolled for so long as the automatic stay of section 362 of the Bankruptcy Code remains in effect as to Developer (or any permitted Assignee); provided, however, if City obtains relief from the automatic stay under Bankruptcy Code section 362 to declare any default by or exercise any remedies against Developer (or any permitted Assignee), the tolling of any Mortgagee's cure period shall automatically terminate on the earlier of: (i) the date that is sixty days after entry of the order granting City relief from the automatic stay, or (ii) the date of the entry of an order granting Mortgagee relief from the automatic stay. Each Mortgagee shall be entitled to receive written notice from City of the filing of any motion by City in which City seeks relief from the automatic stay of section 362 of the Bankruptcy Code to declare any default by or exercise any remedies against Developer (or any permitted Assignee).

(c) Any Mortgagee who comes into possession of the Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Property, or such portion thereof, that have accrued prior to the time such holder comes into possession. In addition, any Mortgagee who comes into possession of the Property or any portion thereof, pursuant to a foreclosure of mortgage or deed of trust, or deed in lieu of such foreclosure, shall, subject to Section 4.10(a) above, be a permitted Assignee and, as such, shall succeed to all the rights, benefits and obligations of Developer under this Agreement.

(d) Nothing in this Agreement shall be deemed to be construed to permit or authorize any such holder to devote the Property, or any portion thereof, to any uses, or to construct any improvements thereof, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

4.11 Compliance with Government Code Section 65867.5.

In accordance with the requirements of Government Code section 65867.5, City and Developer agree that any tentative subdivision map(s) for the Project is hereby made subject to a condition that a sufficient water supply shall be available. Proof of the availability of a sufficient water supply shall be secured in accordance with the provisions of Government Code section 66473.7.

4.12 Termination.

This Agreement shall terminate upon the expiration of the Term, as set forth in Section 1.03(a), or at such other time as this Agreement is terminated in accordance with the terms hereof, whichever occurs first. Upon termination of this Agreement, the City shall record a notice of such termination, in a form satisfactory to the City Attorney that the Agreement has been terminated.

ARTICLE 5

GENERAL PROVISIONS

5.01 Miscellaneous.

(a) Preamble, Recitals, Exhibits. References herein to "this Agreement" shall include the Preamble, Recitals and all of the exhibits of this Agreement.

(b) Requirements of Development Agreement Statute. The permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project shall be those set forth in the Applicable Law. As Subsequent Approvals are adopted and therefore become part of the Applicable Law, the Subsequent Approvals will refine the permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project.

(c) Governing Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California and legal actions commenced under or pursuant to this Agreement shall be brought in Santa Clara Superior Court. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(d) Project as a Private Undertaking. No partnership, joint venture, or other association of any kind between Developer, on the one hand, and City on the other hand, is formed by this Agreement. The development of the Property is a separately undertaken private development. The only relationship between City and Developer is that of a governmental entity regulating the development of private Property and the owners of such private Property.

(e) Indemnification. Developer shall hold City, its elective and appointive boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's contractors, subcontractors', agents' or employees' operations on the Project, whether such operations be by Developer or by any Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors. Developer shall indemnify and defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and Developer shall pay all reasonable attorney's fees and costs that the City may incur. City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless requirement of Developer because of the acceptance of improvements by City, or the deposit of security with City by Developer. The aforesaid hold-harmless requirement of Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this subsection, regardless of whether or not City has

prepared, supplied or approved of, plans and/or specifications for the subdivision. Notwithstanding anything herein to the contrary, Developer's indemnification of City shall not apply to the extent that such action, proceedings, demands, claims, damages, injuries or liability is based upon the active negligence of the City. Developer shall, during the life of this Agreement take out and maintain insurance coverage with an insurance carrier authorized to transact business in the State of California as will protect the Developer or any Contractor or any Subcontractor or anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable, from claims for damages because of bodily injury, sickness, disease, or death of their employees or any person other than their employees, or for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom. The minimum limits of liability for such insurance coverage which shall include comprehensive general and automobile liability, including contractual liability assumed under this agreement, shall be as follows:

Limit of Liability for Injury or Accidental Death:

Per Occurrence \$1,000,000

Limit of Liability for Property Damage:

Aggregate Liability for Loss \$1,000,000

Such liability insurance policies shall name the City as an additional insured, by separate endorsement, and shall agree to defend and indemnify the City against loss arising from operations performed under this agreement and before permitting any Contractor or Subcontractors to perform work under this agreement, the Subdivider shall require Contractor or Subcontractors to furnish satisfactory proof that insurance has been taken out and is maintained similar to that provided by the Subdivider as it may be applied to the Contractor's or Subcontractor's work.

(f) Interpretation/Construction. This Agreement has been reviewed and revised by legal counsel for both Developer and City, and any rule or presumption that ambiguities shall be construed against the drafting Party shall not apply to the interpretation or enforcement of this Agreement. The standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of City. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

(g) Notices.

(1) All notices, demands, or other communications that this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective Party as follows:

If to City:

City Clerk
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7259
Fax: (408) 779-3117

With a Copy To: City Attorney
 17575 Peak Avenue
 Morgan Hill, CA 95037
 Tel: (408) 779-7271
 Fax: (408) 779-1592

If to Developer: Newland Homes
 3121 Michelson Dr Suite 110
 Irvine, CA 92612

(2) Any Party may change the address stated herein by giving notice in writing to the other Parties, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to the Developer as required by this Agreement shall also be given to any lender which requests that such notice be provided. Any lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.

(h) Recordation. The Clerk of the City shall record, within ten (10) days after the Effective Date, a copy of this Agreement in the Official Records of the Recorder's Office of Santa Clara County. Developer shall be responsible for all recordation fees, if any.

(i) Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect.

(j) Jurisdiction. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California.

(k) Entire Agreement. This Agreement, including these pages and all the exhibits (set forth below) inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.

(l) 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 Developer and City. This Agreement may be executed in multiple originals, each of which is deemed to be an original.

(m) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

(n) Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Legal Description of Lot on Which Project is to be Located.

Exhibit B Description of Project.

Exhibit C Development Schedule**Exhibit D Project Requirements and Commitment (including RDCS)**

5.02 Limitations on Time to Challenge Validity of this Agreement. Developer shall have ninety (90) days from the date that the City Council approved this Agreement to commence and effect service of summons of any action or proceeding to attack, review, set aside, void or annul this Agreement or any part of this Agreement. Thereafter, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the decision of the proceedings, acts or determinations, including any provision of this Agreement or the enforcement hereof.

5.03 Notice of 90-day Right to Protest. Developer is hereby notified that Developer shall have ninety (90) days from the date of the imposition of any fees, dedications, reservations, or other exactions, to file a protest of the imposition of any such fees, dedications, reservations or other exactions; provided however that any challenge to the validity of any provisions of this Agreement, including Project Mitigations, or any RDCS or Project Specific Requirements, shall be subject to Section 5.02 and that this notice of the right to protest shall not supplant, extend or start anew any protest period already commenced pursuant to previous notices.

5.04 Disclosure Requirements: Developer shall provide written disclosure to potential purchasers of property if the site is within, or adjacent to an area being considered by the California High Speed Rail for the construction of the California High Speed Rail project.

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the date first hereinabove written.

CITY OF MORGAN HILL:

DEVELOPER:

s/_____

s/_____

Steve Rymer, City Manager

Brian Avila, Property Owner

Date: _____

Date: _____

Attest:

s/_____
Michelle Wilson, Deputy City Clerk

Approved as to Form:

s/_____
Donald A. Larkin, City Attorney

Date: _____

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,
MUST BE ACKNOWLEDGED BY A NOTARY)**

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY ON WHICH
PROJECT IS BE LOCATED

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as Follows:

All that certain real property situated in the City of Morgan Hill, County of Santa Clara, State of California, bound on the east by the South Valley Freeway – U.S. 101, bound on the south by the northerly line of Parcel 3 as shown on that Parcel Map filed in Book 303 of Maps, at Page 54, on the west by Walnut Grove Drive and bound on the north by Diana Avenue including the following Parcels:

- Parcel 1, as said parcel is shown upon that certain Parcel Map filed for record on June 29, 1972 in Book 303 of Maps, at Page 54, excepting Parcel One as granted to the City of Morgan Hill, recorded August 10, 2006, as Document Number 19056635.
- Lot 23, as said lot is shown upon that certain Tract Map No. 8494 titled “Diana Estates – Phase 2”, filed for record on December 24, 1991 in Book 633 of Maps, at Pages 12 through 14
- That Parcel described as Parcel 23 in Exhibit “A” in that certain Stipulated Judgment filed for record on November 12, 2009, in Document Number 20504866
- That portion of Diana Avenue described in the Quitclaim Deed from the City of Morgan Hill to The Light of the World Apostolic Church of San Jose, recorded October 5, 2006 as Document Number 19132844

APN: 726-07-023, -024, and -089

EXHIBIT B**DESCRIPTION OF PROJECT****DEVELOPMENT AGREEMENT, DA-16-01/: WALNUT GROVE - NEWLAND:**

Development Agreement for five residential building allotments for Fiscal Year 2017-2018 and four residential building allotments for Fiscal Year 2018-2019 on a 2.1-acre site. The proposed development would be a nine-unit single-family residential project. The properties, identified by Assessor Parcel Number(s) 726-07-089, 726-07-023 and 726-07-024, are located at the east side of Walnut Grove Drive, south of Diana Avenue

MMC-15-10: Walnut Grove-Newland

FY 2017-2018, Five building allotments

AAE2017-0010: Walnut Grove – Newland

FY 2018-2019, Four building allotments

EXHIBIT C
DEVELOPMENT SCHEDULE

MMC-15-10: Walnut Grove-Newland
FY 2017-2018, 5 allotments
RDCS 2016-0012
FY2018-2019, 4 allotments

I. SUBDIVISION APPLICATION	
Application Submitted:	4-1-16
II. SITE REVIEW APPLICATION	
Application submitted:	06-20-16
III. FINAL MAP SUBMITTAL	
Map, Improvements Agreement and Bonds:	
FY 2017-17, five units	09-30-17
FY 2018-19, four units	09-30-18
IV. BUILDING PERMIT SUBMITTAL	
Submit plans to Building Division for plan check:	
FY 2017-18, five units	01-05-18
FY 2018-19, four units	01-05-19
V. BUILDING PERMITS	
Obtain Building Permits:	
FY 2017-18, five units	03-31-18
FY 2018-19, four units	03-31-19
VI. COMMENCE CONSTRUCTION:	
FY 2017-18, five units	06-30-18
FY 2018-19, four units	06-30-19

Failure to obtain a building permit by the date listed above shall result in the loss of the building allotment. 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 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

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.

EXHIBIT D SPECIFIC RESTRICTIONS AND REQUIREMENTS

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 cost 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	<u>Time of Implementation</u> (specify date or phase #)	<u>Estimated Cost or Fee Amount*</u>
18.78.210	Schools		
B 1. Developer fees	Pay district adopted developer fees as provided by the Leroy F. Green School Facilities Act of 1988.	Prior to issuance of each building permit.	Fee at time of perr issuance.
B 4. Off-site pedestrian safety improvements	Provide off-site pedestrian safety improvements or traffic safety improvements to an elementary school located within 3/4 miles of the project site or to a middle school or high school up to \$4,950 per unit.	Prior to the issuance of a Certificate of Occupancy	\$4,950 per unit
18.78.220	Open Space		
4. Transfer Development Credit (TDC)	Pay double the amount for Transfer of Development Credit	Prior to the issuance of a Certificate of Occupancy	Fee at time of perr issuance.
18.78.240	Public Facilities		

2.f Provides public improvements	Provides public facility, off-site storm drainage improvements or pedestrian improvements from a City-approved list or improvements on or adjacent to the project in excess of standard requirements, e.g. sewer, traffic control to be determined by Public Works. The project commits to provide up to \$4,400 per unit.	Prior to the issuance of a Certificate of Occupancy	\$4,400 per unit
2.g Contribution to RDCS Capital Improvements fund	The project will contribute \$1,100 per unit to the RDCS Capital Improvement Program Fund.	Prior to the issuance of a Certificate of Occupancy	\$1,100 per unit
18.78.250	Parks and Paths		
1. ≤50 units: Fees in lieu of park land dedications (State amount calculated pursuant to Muni Code Chapter 17.28)	The project shall pay an in-lieu fee consistent with the requirements contained in Chapter 17.28 of the Municipal Code.	Prior to the issuance of a Certificate of Occupancy	NA
3. Bike Lanes	Project shall provide at least .225 miles of Class II bike lanes. Prior to installation, the Project shall coordinate with City of Morgan Hill to determine the location for the Class II bike lane improvements to be installed.	Prior to improvement plan approval	NA
7. ≤50 units. Triple standard park impact fees (State Amount)	In addition to standard park fees, project shall pay the lesser of either eighteen times the in-lieu park fees or \$6,600 per unit.	Prior to the issuance of a Certificate of Occupancy	\$6,600 per unit
18.78.260	Housing Needs		
1. Secondary Units	The project will include two secondary units.	Prior to issuance of Architectural and Site Plan Review.	NA
2a. Housing mitigation fee (State Amount)	The project will pay the standard housing fee computed at eight percent (8%) of the total project.	Prior to the issuance of a Certificate of Occupancy	NA

2b. Payment of double standard housing in-lieu fee	In addition to the payment of the standard housing fee stated in 2a above, the project will pay double the standard housing fee computed at 8% of the total project (including replacement units).	Prior to the issuance of a Certificate of Occupancy	NA
18.78.270	Housing Types		
4. Visibility Accessible Units	The project will include 3 units as visitability accessible units.	Prior to issuance of Architectural and Site Plan Review.	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:	a. Installation of OSB/Plywood wrap b. Foundations: 20% reduction of cement in the concrete mix design by use of fly ash, slag, silica fume or rice hull ash c. Installation of light weight wallboard for all walls excluding code requirement for fire walls d. Installation of one dedicated ¾ inch electrical raceway for a future circuit to accommodate two 220 Volt electric car charging stations inside the garage f. Installation of 90% high efficiency fan forced heating g. Zoned heating and air conditioning for all one and two-story homes. For multi-family projects with multi-story units, air returns are installed on two floors to improve temperature distribution. h. The proposed development will provide all the following: 1. Listed sound attenuated 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.	Prior to issuance of a building permit.	NA
18.78.300	Circulation Efficiency		

B4. General Community Benefit	The applicant agrees to spend \$2,200/unit toward the construction of roadway improvements near or adjacent to the proposed development.	Prior to improvement plan approval.	NA
18.78.310	Safety and Security		
B1. Enhances safety and security	The project shall install the following features to enhance safety and security: a. Install a fire proof safe that is bolted to the floor or in another suitable location. b. Provides a first aid kit with a poison control document to be installed in the kitchen area of the home. d. Lighting on all buildings shall meet Police Department specifications, California Electrical Code and MHMC. f. Illuminated address numbers for each unit and painted reflective curb numbers will be provided. g. Dead bolts will be provided on all swinging exterior doors. k. All pedestrian walkways to the front doors will be illuminated with a minimum of one (1) foot candle to ensure safe nighttime conditions.	Prior to the issuance of a Certificate of Occupancy	NA
B2. Crime Prevention through Environmental Design (CPTED)	The listed principles of Crime Prevention through Environmental Design (CPTED) will be incorporated in the development design.	Prior to Design Permit approval	NA
B3. Lockable Hardware	Lockable hardware will be installed on all side yard and patio gates.	Prior to the issuance of a Certificate of Occupancy	NA
B4. Alarm Systems	Project will install an intrusion, fire alarm and heat detector system, monitored by a central station. Project will include a one-year monitoring contract with each home purchase.	Prior to the issuance of first Certificate of Occupancy	NA

B5. Emergency Preparedness	Project will establish a Neighborhood Preparedness Program to be administered by the HOA. Project developer will direct HOA to contact the Office of Emergency Services to schedule a resident meeting within 180 days of the first homeowners taking occupancy.	Prior to the issuance of first Certificate of Occupancy	NA
18.78.335	Livable Communities		
6. Architectural variation and differentiation	The project architecture shall include the following features to provide variation and differentiation: a. Porches, balconies, for any area viewed from the public right-of-way on at least 25% of units to promote a neighborhood feel b. Use of at least two different roof lines and two different pitches throughout the project, i.e. gable, hipped, dormers, Mansard, etc. c. Use of architecture, profiles and massing that are compatible and work with the existing surrounding neighborhoods. d. Provides a consistent level of architectural relief and detailing on all four building elevations. 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. In addition, each standard trim and base color must represent no more than 15% (project size permitting) of the project.	Prior to Design Permit approval	NA

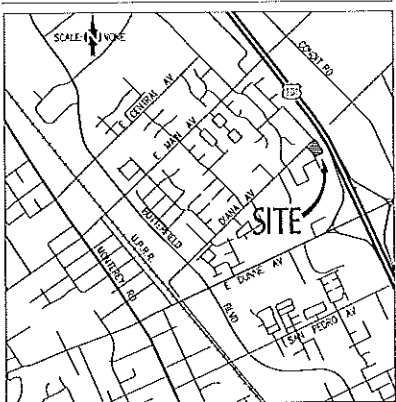
notes:

ASSESSOR'S PARCEL NO.	726-07-089, 023, 024
PRESENT USE:	VACANT
PROPOSED USE:	RESIDENTIAL
PRESENT ZONING:	R1-9,000
PROPOSED ZONING:	R1-9,000
SANITARY SEWER:	CITY OF MORGAN HILL
GAS and ELECTRIC:	PG&E
WATER:	CITY OF MORGAN HILL
TELEPHONE:	VERIZON
EXISTING IMPROVEMENTS:	AS SHOWN
GENERAL PLAN:	SINGLE FAMILY MEDIUM

density calcs:

TOTAL PROJECT AREA:	2.172 ACRES
ORIGINAL BOUNDARY AREA:	2.070 ACRES
VACATED STREET AREA:	0.102 ACRES
DEDICATED RIGHT OF WAY:	0.397 ACRES
PROJECT NET AREA:	1.775 ACRES
NO. UNITS ALLOWED:	9 UNITS
NO. UNITS PROPOSED:	5 UNITS
OPEN SPACE AREA:	0.119 ACRES

vicinity map:



abbreviations:

APN	ASSESSOR'S PARCEL NUMBER
EX.	EXISTING
P.S.D.E.	PRIVATE STORM DRAINAGE EASEMENT
P.S.E.	PUBLIC SERVICE EASEMENT
P.E.	PUBLIC EASEMENT

CITY OF MORGAN HILL
PLAN APPROVED
THIS PLAN WAS APPROVED BY
THE PLANNING DIVISION
ON 11-22-16
SD-16-02 *Rich*
FILE NUMBER
Richard Berthom
PLANNING OFFICIAL

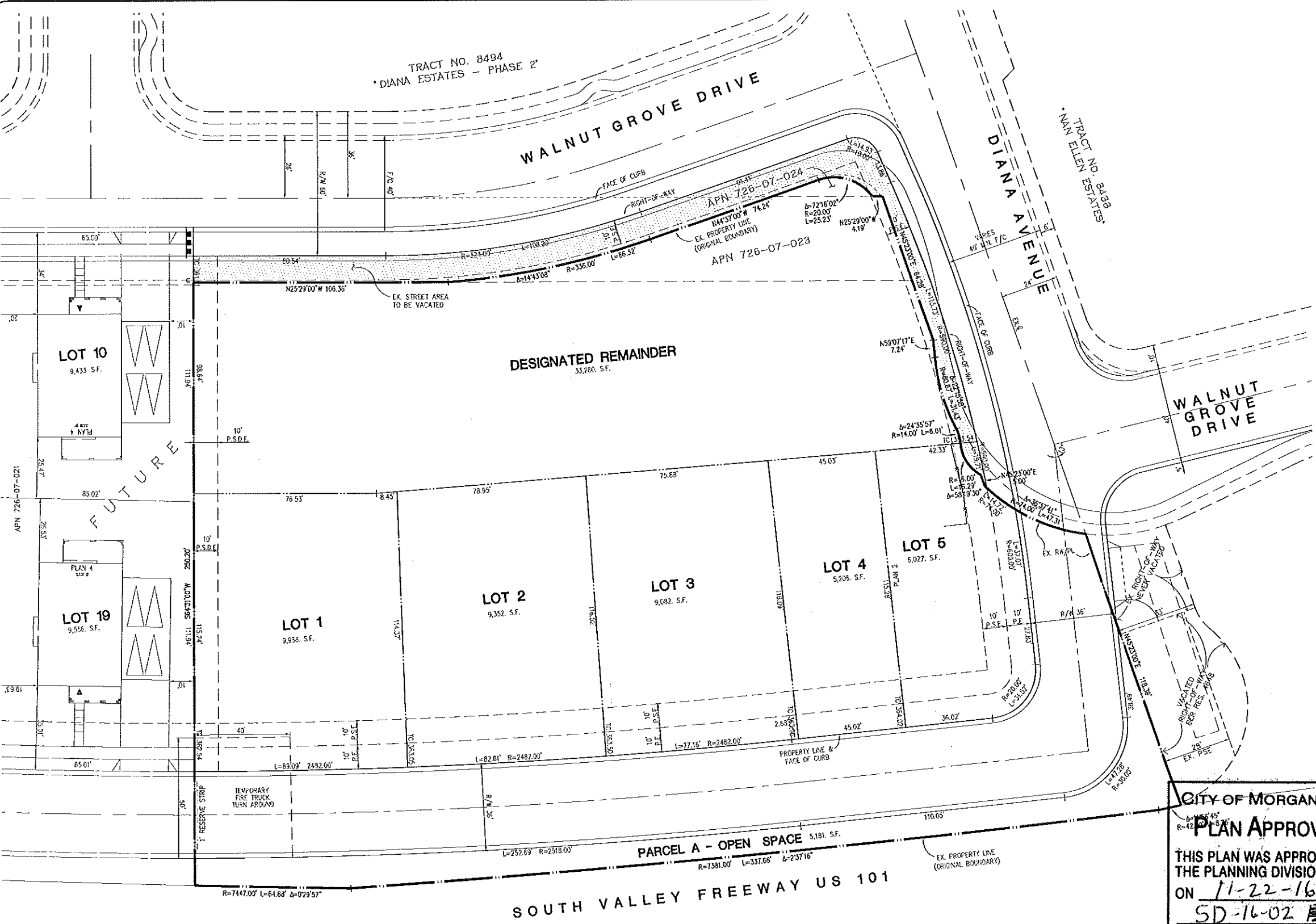


SCALE: 1" = 20'

MH engineering Co.
18075 Vineyard Boulevard Morgan Hill, CA 95037

DATE: 11/16 DRAWN: MM CHECKED: WJM

sheet
1
of 04
215082.1



Newland Homes
vesting tentative map

owners:

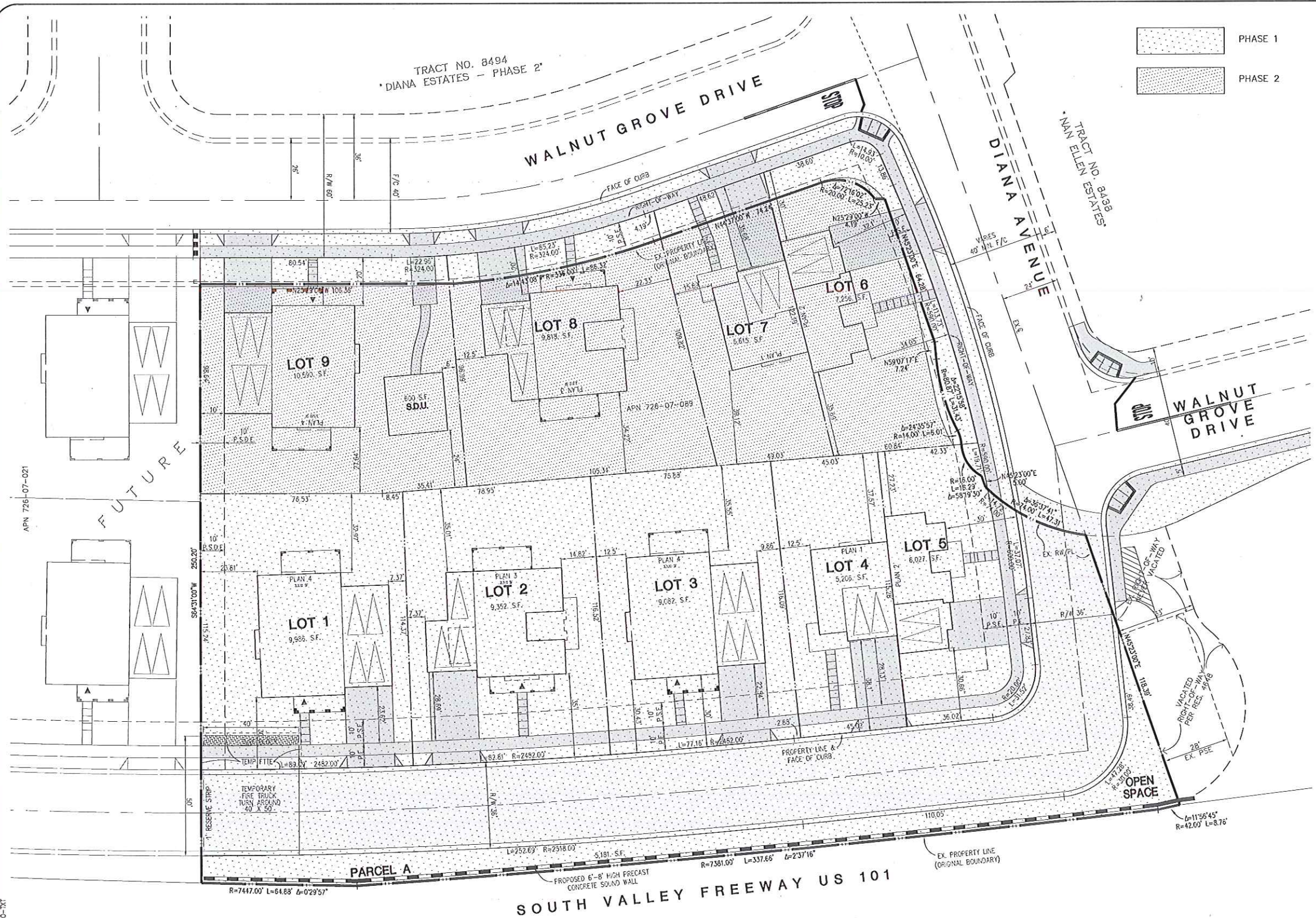
LIGHT OF THE WORLD APOSTOLIC CHURCH
4841 WELLINGTON PARK DRIVE
SAN JOSE, CA 95138
TIM J. HEALEY
4132 DEVILLE DRIVE
SAN JOSE, CA 95117

applicant:

BRYAN AVILLA
3121 MICHELSON DRIVE, SUITE 110
IRVINE, CA 92612
(949) 344-2705

engineer:

MH ENGINEERING
18075 VINEYARD BLVD.
MORGAN HILL, CA 95037
(408) 779-7381
R.C.E. 24993



notes:

ASSESSOR'S PARCEL NO:	726-07-089, 023, 024
PRESENT USE:	VACANT
PROPOSED USE:	RESIDENTIAL
PRESENT ZONING:	R1-9,000
PROPOSED ZONING:	R1-9,000
SANITARY SEWER:	CITY OF MORGAN HILL
GAS and ELECTRIC:	PG&E
WATER:	CITY OF MORGAN HILL
TELEPHONE:	VERIZON
EXISTING IMPROVEMENTS:	AS SHOWN
GENERAL PLAN:	SINGLE FAMILY MEDIUM

density calcs:

TOTAL PROJECT AREA:	2.172 ACRES
ORIGINAL BOUNDARY AREA:	2.070 ACRES
VACATED STREET AREA:	0.102 ACRES
DEDICATED RIGHT OF WAY:	0.397 ACRES
PROJECT NET AREA:	1.775 ACRES
NO. UNITS ALLOWED:	9 UNITS
NO. UNITS PROPOSED:	9 UNITS
OPEN SPACE AREA:	0.119 ACRES

building mix:

PLAN 1	2
PLAN 2	2
PLAN 3	2
PLAN 4	3
TOTAL	9

building coverage calcs:

PROJECT NET AREA:	1.775 ACRES
DRIVEWAY COVERAGE:	0.132 ACRES
SIDEWALK AREAS:	0.059 ACRES
BUILDING COVERAGE:	0.493 ACRES
% BUILDING COVERAGE:	31.10%

building notes:

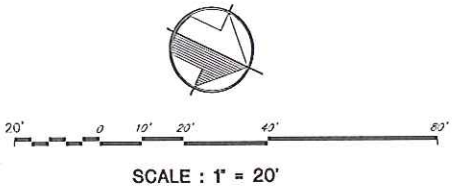
LOT	PLAN	LOT SIZE
1	4	9,956 SF
2	3	9,352 SF
3	4	9,052 SF
4	1	5,205 SF
5	2	6,027 SF
6	2	7,256 SF
7	1	5,615 SF
8	3	9,818 SF
9	4	10,590 SF

setback notes:

	R1-9,000	
	SINGLE STORY	TWO STORY
TYPICAL FRONT YARD SETBACK:	25'	30'
TYPICAL REAR YARD SETBACK:	20'	25'
TYPICAL SIDE YARD SETBACK:	5'	12.5'

abbreviations:

APN	ASSESSOR'S PARCEL NUMBER
EX.	EXISTING
P.S.D.E.	PRIVATE STORM DRAINAGE EASEMENT
P.S.E.	PUBLIC SERVICE EASEMENT
P.E.	PUBLIC EASEMENT



Newland Homes
site development plan

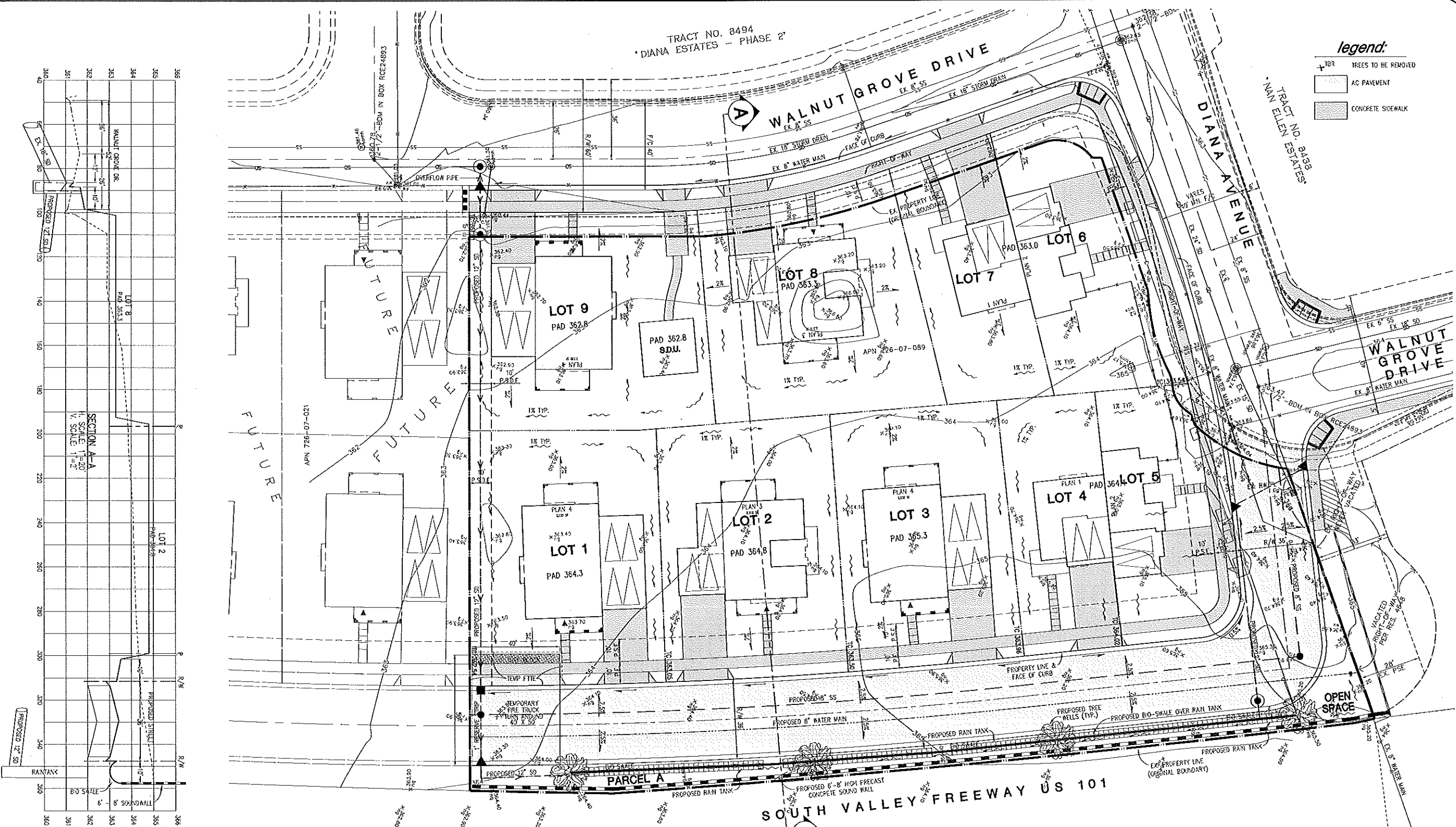
owners:
LIGHT OF THE WORLD APOSTOLIC CHURCH
4841 WELLINGTON PARK DRIVE
SAN JOSE, CA 95136
TIM J. HEALEY
4132 DEVILLE DRIVE
SAN JOSE, CA 95117

applicant:
BRYAN AVILLA
3121 MICHELSON DRIVE, SUITE 110
IRVINE, CA 92612
(949) 344-2705

engineer:
MH ENGINEERING
16075 VINEYARD BLVD.
MORGAN HILL, CA 95037
(408) 779-7381
R.C.E. 24693

MH engineering Co.
16075 Vineyard Boulevard Morgan Hill, CA 95037

DATE: 11/16 DRAWN: WM CHECKED: WM



legend:
+ TBR TREES TO BE REMOVED
AC PAVEMENT
CONCRETE SIDEWALK

owners:
LIGHT OF THE WORLD APOSTOLIC CHURCH
4541 KELLINGTON PARK DRIVE
SAN JOSE, CA 95135
TIM J. HEALEY
4132 DEVILLE DRIVE
SAN JOSE, CA 95117

applicant:
BRYAN AVILA
3121 MICHELSON DRIVE, SUITE 110
RYAN, CA 92612
(949) 344-2705

engineer:
MH ENGINEERING
16075 VINEYARD BLVD.
MORGAN HILL, CA 95037
(408) 779-7351

Newland Homes
preliminary grading plan

Newland Homes LID - BMP Sizing Calcs

Proposed BMP No.	BMP Impervious Area Public Hardscapes (S.F.)	Private Hardscapes (S.F.)	95th Percentile (1.6" Rain) First Flush Volume to Treat (Cu. Ft.)	Proposed BMP Surface Area (S.F.)	Native Soil Infiltration Rate (in/hr)	BMP Loading Depth (inches)	BMP Infiltration Duration (hrs) ± 72
1	18,247	32,059	6,707	2,231	0.6	54	80

PROPOSED RAIN TANK'S VOLUME:
495L X 4.5'W X 4.5' H = 10,004 CF.

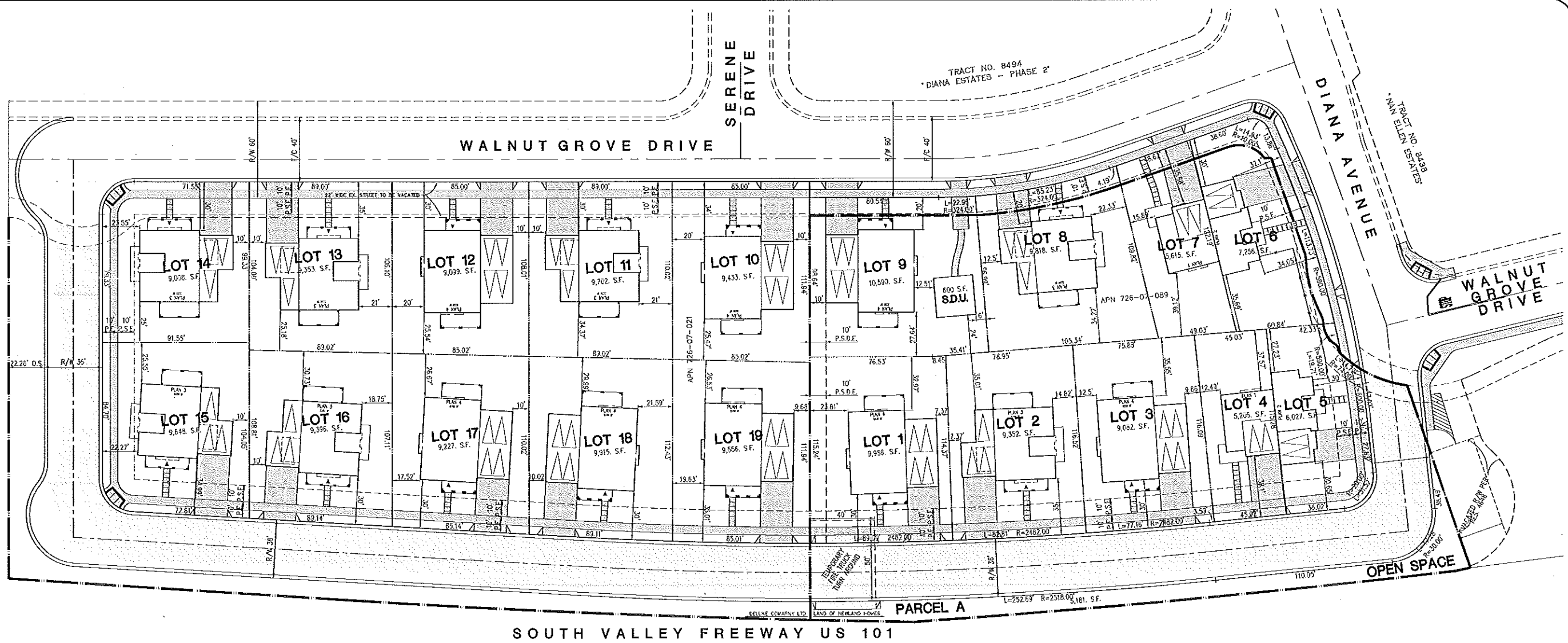
SCALE : 1" = 20'

MH engineering Co.
16075 Vineyard Boulevard Morgan Hill, CA 95037

DATE: 9/16 DRAWN: MN CHECKED: MN

sheet 3 of 04 215082.1

L:\Projects\2016\215082\1dwg\215082.1-PGP.dwg 11/7/2016 8:45:46 AM PST
Xref's: 215082.1-HATCH, 215082.1-PLO, 215082.1-TEXT, 215082.1-3D



notes:

ASSESSOR'S PARCEL NO: 726-07-021, 089
PRESENT USE: RESIDENTIAL
PROPOSED USE: RESIDENTIAL
PRESENT ZONING: R1-9,000 RPD
PROPOSED ZONING: R1-9,000 RPD
SANITARY SEWER: CITY OF MORGAN HILL
GAS and ELECTRIC: PG&E
WATER: CITY OF MORGAN HILL
TELEPHONE: VERIZON
EXISTING IMPROVEMENTS: AS SHOWN
GENERAL PLAN: SINGLE FAMILY MEDIUM

building mix:

	NEWLAND HOMES	DELUKE COMPANY LTD
PLAN 1	2	0
PLAN 2	2	0
PLAN 3	2	5
PLAN 4	3	5
TOTAL	9	10

setback notes:

	R1-9,000
	SINGLE STORY TWO STORY
TYPICAL FRONT YARD SETBACK:	25' 30'
TYPICAL REAR YARD SETBACK:	20' 25'
TYPICAL SIDE YARD SETBACK:	5' 12.5'

abbreviations:

APN- ASSESSOR'S PARCEL NUMBER
EX- EXISTING

vicinity map:



density calcs:

	NEWLAND HOMES	DELUKE COMPANY LTD
TOTAL PROJECT AREA:	2.172 ACRES	2.942 ACRES
VACATED STREET AREA:	0.102 ACRES	0.225 ACRES
DEDICATED RIGHT OF WAY:	0.397 ACRES	0.491 ACRES
PROJECT NET ACREAGE:	1.775 ACRES	2.166 ACRES
NO. UNITS ALLOWED:	9 UNITS	10 UNITS
NO. UNITS PROPOSED:	9 UNITS	10 UNITS
OPEN SPACE AREA:	0.119 ACRES	0 ACRES

building coverage calcs:

	NEWLAND HOMES	DELUKE COMPANY LTD
PROJECT NET AREA:	1.775 ACRES	2.166 ACRES
DRIVEWAY COVERAGE:	0.132 ACRES	0.141 ACRES
BUILDING COVERAGE:	0.493 ACRES	0.679 ACRES
% BUILDING COVERAGE:	31.10%	36.72%

building notes:

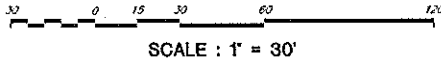
NEWLAND HOMES		DELUKE COMPANY LTD	
LOT PLAN	LOT SIZE	LOT PLAN	LOT SIZE
1 4	9,986 SF	10 4	9,433 SF
2 3	9,352 SF	11 3	9,702 SF
3 4	9,082 SF	12 4	9,099 SF
4 1	5,206 SF	13 3	9,353 SF
5 2	6,027 SF	14 3	9,008 SF
6 2	7,256 SF	15 3	9,648 SF
7 1	5,615 SF	16 3	9,396 SF
8 3	9,818 SF	17 4	9,227 SF
9 4	10,590 SF	18 4	9,915 SF
		19 4	9,556 SF

applicant:

BRYAN AVILLA
3121 MICHELSON DRIVE, SUITE 110
IRVINE, CA 92612
(949) 344-2705

engineer:

MH ENGINEERING
16075 VINEYARD BLVD.
MORGAN HILL, CA 95037
(408) 779-7381



SCALE : 1" = 30'

Newland Homes
precise development plan

MH engineering Co.

16075 Vineyard Boulevard Morgan Hill, CA 95037

DATE: 11/16 DRAWN: W.M. CHECKED: W.M.

sheet
4
of 04
215082.1

RESOLUTION NO. 17-**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A VESTING TENTATIVE SUBDIVISION MAP AMENDMENT FOR A 9-LOT RESIDENTIAL SUBDIVISION WITH 1 OPEN SPACE LOT ON A 2.1 ACRE SITE LOCATED ON THE EAST SIDE OF WALNUT GROVE DRIVE, IN THE R-1 9,000 ZONING DISTRICT (APN 726-07-089, -023, -024)**

WHEREAS, such request was considered by the Planning Commission at its regular meeting of March 28, 2017, at which time the Planning Commission approved the subdivision map amendment application, AAE2017-0010 Walnut Grove-Newland; 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 Planning Commission of the City of Morgan Hill hereby finds that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the Resolution. 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 3** The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.
- SECTION 4.** 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.

**PASSED AND ADOPTED THIS 28th DAY OF MARCH 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, _____, applicant(s), hereby agree to accept and abide by the terms
and conditions specified in this resolution.

By: _____

Date: _____

Attachment: 03 Supplement 1 (1063 : AAE2016-0007/AAE2017-0010 Walnut Grove Newland)

EXHIBIT "A"

CONDITIONS OF APPROVAL

APPLICATION: AAE2017-0010: Walnut Grove-Newland (Tentative Subdivision Map Amendment)

THE FOLLOWING ARE CONDITIONS OF APPROVAL THAT MUST BE MET PRIOR RECORDATION OF THE FINAL MAP.

ACRONYMS:

MHMC – Morgan Hill Municipal Code

MHARH – Morgan Hill Architectural Review Handbook

EXHIBIT A

CONDITIONS OF APPROVAL

PLANNING DIVISION

1. The Tentative Subdivision Map approval granted under this Resolution shall remain in effect for two years to March 28, 2019. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Planning Commission prior to the expiration date. (MHMC 17.20.170; 17.24.110)
2. MAP APPROVAL: The Tentative Map approval granted under this Resolution is for the tentative map documents date stamped December 16, 2016 on file at the Community Development Department, entitled "Newland Homes Vesting Tentative Map". These documents, as amended by Design Review approval, show the location and sizes of all lots in this development, the location and dimensions of all vehicle and pedestrian circulation ways, landscape areas and other easement areas. The final map shall be in substantial compliance with the approved tentative map.
3. Recordation of a final map shall be in accordance with the number of building allotments granted through the Residential Development Control System (RDCS) for this project. Should a portion of the project's building allotment expire prior to final map approval, the number of lots on the final map shall be reduced to correspond to the remaining allotment. (MHMC 18.78.020)
4. CC & RS: The applicant shall provide a set of Covenants, Conditions and Restrictions, Bylaws and Articles of Incorporation, for review and approval by the Community Development Department prior to final occupancy or recordation of the final map. All such CC&Rs shall include the following text:
 - i. Common Areas/Right of Ways:
 1. The Owners recognize that the use, modification and proper maintenance of the Common Area and public right-of-way(s)* are for the benefit of all citizens of the City of Morgan Hill (City) and that the City is an intended third party beneficiary of these covenants, conditions and restrictions and may, upon notice of hearing as set forth below, exercise the same powers of enforcement as the Association.

- a. *Public right-of-way: Exclusive of streets dedicated to and accepted by the City of Morgan Hill
2. The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within thirty (30) days of the mailing or delivery of such notice, the City shall have standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.
3. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association.
4. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
5. This section may not be amended without the prior written consent of the Director of Community Development for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
6. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance obligation or duty of maintenance is increased by such amendment.
 - ii. Tree and Landscape Preservation: The Owners of the Units and Association shall preserve and maintain all trees and landscape on the property originally required by the approved landscape plan and shall not remove or alter any such trees or landscape from the Property without the approval of the Director of Community Development of the City of Morgan Hill.
 - iii. Compliance with the City of Morgan Hill Conditions of Approval: It shall be the responsibility of each Owner and the Association to insure that any changes or modifications to the Project or any Unit are in compliance with the original City conditions of approval of the Project, which are hereby incorporated herein as if set forth in full.
5. FINAL PLANS: Final site development plans shall be reviewed and approved by the Community Development Agency prior to issuance of a building permit. All such plans shall include:

- A. Detail depicting all concrete curbs as full formed. (MHMC 18.50.270)
 - B. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.
 - C. Any and all existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.
6. DUST, NOISE, VIBRATION, AND MATERIALS MANAGEMENT PLAN: A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.(MHMC 18.48.005)

The plan must include the following “Basic Construction Mitigation Measures” per Bay Area Air Quality Management District’s guidelines:

- i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- vii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
- viii. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.
- ix. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

- x. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
 - xi. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
 - xii. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
 - xiii. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
 - xiv. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
 - xv. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
 - xvi. Minimizing the idling time of diesel powered construction equipment to two minutes.
 - xvii. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
 - xviii. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
 - xix. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
 - xx. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.
7. **STREET NAMES:** Street names, private or otherwise, used to identify building locations shall be submitted to the Planning Division for approval. Proposed street names shall comply with the Street Naming Policy approved by City Council. (Res No. 4601)
8. **ON-SITE DRAINAGE AND RECREATION PARCELS:** A note shall be placed on the final map which shall indicate that lot 19 labeled as "Parcel A-Open Space" shall be used for no purpose other than for on-site storm drainage facilities, project utilities and project access. All proposed trails, private open space and associated facilities shall be permanently secured with appropriate documentation [i.e., Deeds; Easements; Covenants, Conditions and Restrictions (CC&Rs), Dedication, Homeowners Association; etc.).

9. DEFENSE AND INDEMNITY: Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this subdivision application. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.
10. MITIGATION FEE ACT: Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun. This right to protest does not apply to voluntary Residential Development Control System fees.
11. SIGNED RESOLUTION REQUIRED: Submit two (2) signed copies of Approval Resolution No. 17- to the Planning Division prior to issuance of building permits.
12. SIGNED DEVELOPMENT AGREEMENT REQUIRED: Prior to approval of the final map, the property owner shall submit to the Planning Division two (2) signed notarized copies of the Development Agreement for the project.
13. RECORDATION OF MAP: The recordation of the final map shall not be completed until approval of the Design Review Permit is completed.
14. DESIGN PERMIT REQUIRED: Prior to approval of the final map, the project shall obtain Design Review approval of the project.
15. HABITAT PLAN
 - a. The approved project is covered under the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.
 - b. Prior to issuance of building permits or grading permits the project shall complete and submit a Habitat Plan Application Package. All fees must be paid prior to issuance building permits or grading permits. **(MHMC 18.69.050)**
 - c. Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement

plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt). (MHMC 18.69.040)

20. MITIGATION: The applicant shall be subject to compliance with the mitigation measures of the project's adopted Mitigated Negative Declaration. The following mitigation measures shall be included with all building permit, grading, or improvement plans.

1. Biological Resources

- MM BIO-1** A pre-construction survey shall be conducted by a qualified Burrowing Owl biologist no more than 30 days prior to initiation of any ground disturbing (construction) activity to assure take avoidance of burrowing owls. The survey shall consist of a habitat assessment, burrow survey, owl survey, and completion of a written report. The written report shall be submitted to the Community Development Department. If owls are observed during the preconstruction survey, no impacts to the owls or their habitat will be allowed during the nesting season (February 1 to August 31).
- MM BIO-2** Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones, with a 250-foot radius from occupied burrows, shall be established. All development-related activities shall occur outside of the exclusion area until the young have fledged.
- MM BIO-3.** If pre-construction surveys are conducted during the non-breeding season (September 1 through January 31) and burrowing owls are observed on the site, the owls may be relocated upon approval by the California Department of Fish and Wildlife, in accordance with the Burrowing Owl Mitigation Plan.
- MM BIO-4** No later than submittal of the first construction or grading permit for the Newland Homes Tentative Map area, the owner or designee shall pay the Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the 2.1-acre site, as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.69.150 of the Morgan Hill Municipal Code. Similarly, no later than submittal of the first construction or grading permit for the southern 2.6-acre future development area, the applicant of such development shall pay the appropriate Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the 2.6-acre area, as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.69.150 of the Morgan Hill Municipal Code.
- MM BIO-5** If construction is proposed during breeding season (February 1 to August 31), a pre-construction nesting survey for raptors and other protected migratory birds shall be conducted by a qualified biologist and submitted to the City of Morgan Hill Community Development Department for review no more than 14 days prior to the start of construction. Pre-construction surveys during the non-breeding season (September 1 to January 31) are not necessary for birds, including roosting raptors, as they are expected to abandon their roosts during construction. If these species are deemed absent from the area, construction

may occur within 14 days following the survey during the early nesting season (February to May) and within 30 days following the survey during the late nesting season (June to August).

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

MM BIO-6. Prior to removal of any on-site trees, as defined in Section 12.32.020 of the City of Morgan Hill Municipal Code, the applicant shall obtain a tree removal permit from the City of Morgan Hill in accordance with the Municipal Code. A certified arborist shall identify the precise location, type, size, and health of each tree proposed for removal. All protected trees removed on-site, including trees that are fatally damaged as a result of project buildout, shall be subject to replacement plantings as determined by the City of Morgan Hill's Community Development Department.

For any subject trees that are not proposed for removal, prior to approval of Improvement Plans, the project applicant shall retain a certified arborist to prepare a tree protection plan, subject to review and approval by the Community Development Department. The plan shall demonstrate how any retained trees are to be protected during and after construction. The tree protection plan shall include, but not be limited to, the following:

- Locate structures, grade changes, etc. as far as feasible from the 'dripline' area of the tree.
- Avoid root damage through grading, trenching, compaction, etc. Where root damage cannot be avoided, roots encountered (over one-inch diameter) should be exposed beyond the area to be disturbed (towards tree stem), by appropriate methods, and immediately back-filled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.
- Construct a temporary fence as far from the tree stem (trunk) as possible, completely surrounding the tree, and six to eight feet in height. Post no parking or storage signs outside/on fencing. Do not attach posting to the mainstem of the tree.
- Do not allow vehicles, equipment, pedestrian traffic; building materials or debris storage; or disposal of toxic or other materials inside of the fenced off area.
- Avoid pruning immediately before, during, or immediately after construction impact. Perform only that pruning which is unavoidable

due to conflicts with proposed development. Aesthetic pruning should not be performed for at least one to two years following completion of construction. Trees that will be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities.

- Mulch ‘rooting’ area with an acidic, organic compost or mulch.
- Arrange for periodic (biannual/quarterly) inspection of tree’s condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.
- Individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or a more detailed specification than those contained within these general guidelines will be established in the tree preservation plan.

2. Hazards and Hazardous Materials

MM HAZ-1: If any debris or stained soil is encountered within the soil stockpile during construction activities, the contractor shall contact the project applicant, who shall retain the services of a qualified environmental hazard firm, to evaluate the debris to determine whether it poses any environmental contamination risks. A written evaluation shall be submitted to the City of Morgan Hill Community Development Department. If the debris is trash or other non-hazardous material, then the contractor shall dispose of the debris and no further mitigation shall be required. If the debris is associated with signs of soil staining or odors indicative of hazardous materials, the project environmental professional shall obtain samples of the potentially impacted soil for analysis of the contaminants of concern and comparison with applicable regulatory residential screening levels (i.e., Environmental Screening Levels, California Human Health Screening Levels, Regional Screening Levels, etc.). Where the soil contaminant concentrations exceed the applicable regulatory residential screening levels, the impacted soil shall be excavated and disposed of offsite at a licensed landfill facility to the satisfaction of the Santa Clara County Environmental Health Department and the City of Morgan Hill.

MM HAZ-2: Prior to issuance of a grading permit, the applicant shall hire an Environmental Consultant to perform a Phase II Environmental Site Assessment (ESA) in order to determine whether pesticides are persistent in on-site soils. The soil analytical results shall be documented in the Phase II ESA report and submitted to the City Community Development Department. If the Phase II ESA determines that the on-site soils have not been impacted, further mitigation is not required.

If the Phase II ESA determines that on-site soils have been impacted, and contaminants are identified in excess of the California Human Health Screening Levels [CHHSLs] for residential land uses, the contaminated areas shall be remediated such that the resultant concentrations are below the CHHSLs for residential land uses. The Phase II ESA shall specify measures for the remediation of the soils, including proper removal and disposal

procedures. The relative efficacy of potential removal technologies is dependent on subsurface conditions, including soil lithology, groundwater depth, and contaminant type/extent. Accordingly, several remediation options may be considered. For soil contamination, potential removal technologies could include, but would not necessarily be limited to, the following:

- Excavation and off-haul – Impacted soils are excavated until the excavation base and sidewalls do not exhibit impact above a specific screening level or cleanup goal. The excavated soils are transported and disposed of at an appropriate landfill facility.
- Bioremediation - Nutrients, oxygen, and biological cofactors are introduced to the soil (either in-place or post-excavation in a treatment area) to stimulate natural biological breakdown of the contaminants.
- Bioaugmentation – Similar to bioremediation, except that bioaugmentation involves the introduction of engineered microorganisms to the soil to degrade the contaminants.
- Soil vapor extraction (SVE) - Soil gas is extracted from the subsurface under vacuum and brought to the surface, where it is treated.

The project applicant shall comply with all recommendations of the Phase II ESA for review and approval by the Santa Clara County Department of Environmental Health and the City of Morgan Hill.

Noise

Newland Homes Tentative Map Area and Future Development Area

MM NOI-1: In conjunction with submittal of Improvement Plans, the applicant shall show on the Improvement Plans that a noise barrier shall be constructed along the project site's entire US 101 frontage sufficient to reduce noise levels to acceptable levels. If the sound wall is not constructed along the Future Development Area at this time, a sound fence shall be installed along the south side of the Newland Homes Tentative Map area as shown in Figure 9 of the Initial Study. The sound fence shall consist of 100% overlap on fence slats, which shall be screwed to the frame, not stapled or nailed.

The noise barrier(s) shall be a minimum height of six feet in order to reduce noise levels to acceptable levels; however, the specific height, design, and location of the noise barrier(s) shall be confirmed based upon the final approved site and grading plans to the satisfaction of the City Engineer. The Improvement Plans shall be subject to review and approval by the City Engineer.

MM NOI-2: In conjunction with submittal of building plans, the applicant shall show on the plans that mechanical ventilation (air conditioning) shall be provided for all residences to allow the occupants to close doors and windows as desired to achieve compliance with the applicable interior noise level criteria. The

building plans shall be subject to review and approval by the City Building Division.

Newland Homes Tentative Map Area

MM NOI-3: In conjunction with submittal of building plans for the Tentative Map area (i.e. APNs 726-07-024, -023, and -089) the applicant shall show on the plans that, for all of the proposed residences closest to US 101, all second-floor windows on the north, east, and south sides of the buildings shall have a minimum STC rating of 35, and all first-floor windows on the north, east, and south sides shall have a minimum STC rating of 32. The building plans shall be subject to review and approval by the City Building Division.

BUILDING DIVISION

- A. Prior to recordation of the final map, a Civil Engineer licensed by the State of California shall validate with stamped plans and letter indicating the location and quantity of all imported soil. The letter shall also state the condition of the soil and ensure that any hazardous material regulated by the State of California or a Federal agency is below threshold limit concentrations set by the respective regulatory agency.

FIRE DEPARTMENT

1. **Preliminary Review Only,** The requirements and conditions stated in this review are preliminary and are intended to be used for the purposes of project planning. An official Fire Department review of the project will be conducted upon receipt of a complete plan submittal application that clearly shows all intended grading, demolition, construction or building modifications.
2. **Automatic Fire Sprinkler System Required (SFD),** New homes located within the hazardous fire area, and in the non hazardous fire area homes shall be protected throughout by an approved, automatic fire sprinkler system, hydraulically designed per National Fire Protection Association (NFPA) Standard #13D (**CFC Chapter 9 as amended by MHMC 15.44.170**)
3. **Fire Apparatus (Engine) Access Roads Required,** Prior to the commencement of combustible construction, an access roadway with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet, 6 inches shall be provided, with minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%, unless otherwise approved in writing by the Fire Marshal. Installations shall conform to the City of Morgan Hill Standard Details and Specifications 11-B. (**CFC section 503 as amended by MHMC 15.44.140**)
4. **Public Fire Hydrant(s) required,** Provide public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the City of Morgan Hill Public Works Department. Maximum hydrant spacing shall be 500 feet and the minimum single flow hydrant shall be 1000 GPM at 20 psi residual pressure. If fire hydrants are already in place,

include civil drawings showing location of all hydrants with the building permit submittal. (CFC 507)

5. **Premises Identification.** Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background and be a minimum of four inches in height. (CFC section 505)
6. **Timing of Required Roadway Installations.** Prior to the commencement of combustible construction, the required roadway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the City of Morgan Hill unless otherwise approved in writing by the Fire Marshal. Bulk combustible construction materials shall not be delivered to the construction site until installations are completed as stated above. During construction, emergency access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed. (CFC Chapter 14 as amended by MHMC 15.44.180)

PUBLIC WORKS 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. Along the existing Diana Avenue and Walnut Grove Drive frontage the existing street shall be reconstructed (gutter to gutter) to locate the crown of the road to match the new centerline; the new frontage top of curb elevations shall match the existing (opposite) top of curb elevations.
4. A Home Owners Association shall be formed for the maintenance of common areas.
5. The existing waterline shall be relocated into the proposed street pavement area at lot 5.
6. All retention/detention ponds shall be privately maintained by the HOA; provide LID calculation per the City Stormwater BMP manual to be included with the SWRMP.
7. At the corner of Diana and Walnut Grove, portions of proposed Lots 1 and 2 include real property owned by Tim Healey (APN 726-07-023) and Diana Estates (APN 726-07-024). Developer shall purchase said real property in fee prior to final map approval.
8. The developer shall keep the present owners of property at 17380 Walnut Grove Drive (APN 726-08-069), apprised of the proposed frontage improvements or any improvements on their property related to the proposed new street and Walnut Grove Drive modifications. Written verification that the property owner is aware of the extent and timing of these improvements shall be provided to the City prior to approval of any Building or encroachment permits, as these improvements shall be part of/accepted with the in tract improvements.
9. Open Space area adjacent to the U.S. 101 right of way shall be a separate Open Space parcel maintained by the HOA.

10. Public Works impact fees are required for this project and must be paid prior to occupancy of each unit.
11. At the proposed dead end street, a standard barricade shall be installed with signage stating that a future through street shall be installed; no fencing of any type shall be installed behind barricade.
12. At the proposed dead end street, a vehicle/emergency vehicle access (EVA) turn around shall be provided. A temporary asphalt paved vehicle/EVA turn around shall be reserved/constructed on LOT 1. The vehicle turn around area shall be striped and clearly marked as a NO PARKING AREA. An appropriate temporary easement dedication shall be shown on the final map, with the condition upon the development of the adjacent property to the south that the HOA shall install the balance of street, curb, gutter and sidewalk at LOT 1 along the turn around's frontage. Prior to acceptance of the project public improvements, the developer shall set aside the appropriate funds to construct the said public improvements, with the funds being deposited into an approved HOA account.

II. GENERAL

- A. 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)**
- B. 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)**
- C. 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)**
- D. Obtain necessary encroachment permits from:
☒ City of Morgan Hill
and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**
- E. Improvement plans are to show water lines, sanitary Sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- F. 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)**
- G. 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)**

- H. **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)**

III. STREET IMPROVEMENTS

- A. 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)**
- B. 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)**
- C. Dedication of a total of 30 feet from center line of public right-of-way on Walnut Grove and Diana. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.90; 12.02.100; 17.28.010)**
- D. Dedication of the required corner cutoff at the intersection of Walnut Grove and Diana. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010)**
- E. 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. Notwithstanding the above, developer/owner shall have no obligation to underground the existing powerpole or lines located on or adjacent to the 101 Freeway (CalTrans right-of-way) **(MHMC 12.02.090 B; 17.32.020 E.1)**

IV. SANITARY SEWER SYSTEM

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

V. STORM DRAIN SYSTEM

- A. 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)**
- B. 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)**
- C. 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)**
- D. 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.
 - 1. Storm drain calculations to determine detention/retention pond sizing and operations.
 - 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
 - 3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.**(CMH Design Standards and Standard Details for Construction)**
- E. Where the project adjoins existing Santa Clara Valley Water District storm drain facilities, applicant shall obtain dedication(s) of all necessary easement or right-of-way to accommodate established ultimate facilities master plan.
- F. As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Public Works Engineering. A Waste Discharger

Identification (WDID) number to 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)**.

VI. WATER SYSTEM

- A. 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)**
- B. Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD) Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.
- C. 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)**
- D. Provide separate water services and meters for each lot. These are to be installed by developer. **(MHMC 17.32.020 D)**

VII. OTHER CONDITIONS

- A. 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)**
- B. 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.
- C. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**
- D. 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:
 - 1. Civil Engineer of record.
 - 2. Geotechnical Engineer of record.
 - 3. Third Party QSD/QSP SWPPP Inspector.
 - 4. General Contractor.

5. Sub Contractors.

as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.69.150 of the Morgan Hill Municipal Code. Similarly, no later than submittal of the first construction or grading permit for the southern 2.6-acre future development area, the applicant of such development shall pay the appropriate Santa Clara Valley Habitat Plan per-acre fee in effect for the appropriate fee zone of the 2.6-acre area, as determined by the Santa Clara Valley Habitat Agency, in compliance with Section 18.69.150 of the Morgan Hill Municipal Code.

MM BIO-5 If construction is proposed during breeding season (February 1 to August 31), a pre-construction nesting survey for raptors and other protected migratory birds shall be conducted by a qualified biologist and submitted to the City of Morgan Hill Community Development Department for review no more than 14 days prior to the start of construction. Pre-construction surveys during the non-breeding season (September 1 to January 31) are not necessary for birds, including roosting raptors, as they are expected to abandon their roosts during construction. If these species are deemed absent from the area, construction may occur within 14 days following the survey during the early nesting season (February to May) and within 30 days following the survey during the late nesting season (June to August).

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

MM BIO-6. Prior to removal of any on-site trees, as defined in Section 12.32.020 of the City of Morgan Hill Municipal Code, the applicant shall obtain a tree removal permit from the City of Morgan Hill in accordance with the Municipal Code. A certified arborist shall identify the precise location, type, size, and health of each tree proposed for removal. All protected trees removed on-site, including trees that are fatally damaged as a result of project buildout, shall be subject to replacement plantings as determined by the City of Morgan Hill's Community Development Department.

For any subject trees that are not proposed for removal, prior to approval of Improvement Plans, the project applicant shall retain a certified arborist to prepare a tree protection plan, subject to review and approval by the Community Development Department. The plan shall demonstrate how any retained trees are to be protected during and after construction. The tree protection plan shall include, but not be limited to, the following:

- Locate structures, grade changes, etc. as far as feasible from the 'dripline' area of the tree.
- Avoid root damage through grading, trenching, compaction, etc. Where root damage cannot be avoided, roots encountered (over one-inch diameter) should be exposed beyond the area to be disturbed (towards tree stem), by appropriate methods, and immediately back-filled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: March 28, 2017

PREPARED BY: Terry Linder, Senior Planner

APPROVED BY: Jennifer Carman, Community Development Director

SITE REVIEW, SR2017-0004: DEPOT – SUNSWEET MORGAN HILL LLC: REQUEST FOR A SITE, ARCHITECTURE AND LANDSCAPE PLAN APPROVAL FOR A MIXED-USE PROJECT CONSISTING OF 83 RESIDENTIAL UNITS AND 8,051 SQUARE FEET OF COMMERCIAL SPACE LOCATED ON THE WEST SIDE OF DEPOT STREET BETWEEN EAST THIRD STREET AND EAST FOURTH STREET BUILDERS. OWNER).

RECOMMENDATION(S)

Recommend Planning Commission recommend City Council approval of SR 2017-0004:Depot-Sunsweet.

CEQA: An Addendum was prepared which found the project consistent with the Environmental Impact Report prepared for the Downtown Specific Plan, and therefore, no further environmental assessment is required

1. Location: West side of Depot Street between East Third Street and East Fourth Street, approximately 300 feet east of Monterey Road.
2. Site Area: 1.65-acres
3. General Plan: Mixed-Use
4. Zoning: CBD, Central Business District and is also zoned Ground Floor Overlay GFO along the East Third Street frontage.

REQUEST

Republic Properties is requesting site, architectural and landscape plan approval for an 83-unit apartment building with 7859 (gross) square feet of commercial space on a 1.65-acre site located on the west side of Depot Street between East Third Street and East Fourth Street, approximately 300 feet east of Monterey Road. (Assessor Parcel Number(s) 726-13-044, 032 & 054) The project also includes a below grade, 129 space parking garage.

The City of Morgan Hill requires a Design Permit for new construction and significant remodels in accordance with Chapter 18.74 (Design Review) of the Zoning Ordinance. Specific Design Guidelines have been adopted for the City's downtown as part of the City's Downtown Specific plan. The purpose of the guidelines is to provide direction to staff, property owners and architects in the design of new buildings, and exterior changes to existing buildings. Prior to issuance of any Design Permit, the decision-

making body must make a finding of substantial conformance of the proposed design with these Design Guidelines. Design Permits are typically an administrative (staff-level) however, the Downtown Specific plan requires any Design Permit which involves a significant project to be acted upon by the City Council, after receiving a recommendation from staff and/or the Planning Commission. The Sunsweet project has been deemed significant due to its size and its location on Third Street.

BACKGROUND:

In January/February, the Planning Commission and Council approved a Planned Development PD, designation for the site allowing for the following exceptions to the CBD/GFO site development and use standards:

- A five-foot increase to the maximum allowed building height
- A 53 percent reduction in the overall required commercial square footage
- A 5-35-foot reduction in the required commercial space depth
- Inclusion of a 2000 square foot ground floor office use on Third Street
- Payment of the parking in-lieu fee for three parking stalls

During the Council's consideration of the Planned Development request, the Council asked the applicant to address the following areas of concern:

- Minimize the amount of commercial frontage devoted to the leasing office use.
- Minimize the appearance of the fifth story loft elements.
- Provide additional articulation on the Depot Street elevation
- Increase the commercial square footage
- Provide useable commercial space depths
- Maximize the number of on-site parking spaces available
- Provide a parking management plan for the residents

ANALYSIS:

Setbacks

The subject site has a General Plan designation of Mixed-Use, is zoned CBD, Central Business District and is also zoned Ground Floor Overlay GFO along the East Third Street frontage. The zoning was established as part of the Downtown Specific Plan adopted in November 2009.

The required minimum setbacks for commercial and mixed use development in the CBD zoning are zero front, zero side and zero rear. The building as proposed is setback

zero feet from property line (30 feet from the face of the curb) on Third Street. The building setback from property line on Depot Street is 8-15 feet and 15 feet along Fourth Street. Balconies and decks extend 5-7 feet into the 15-foot Fourth Street setback. The commercial space is setback zero feet on the westerly property line creating a ten-foot separation from the existing commercial space to the west. The residential portion of the proposed building is setback 16-20 from the westerly property line, 12 feet to the stairwell behind leasing office and 11 feet to the ramp near Fourth Street. The CBD zoning allows for four story heights (55 feet) on sites of 22,000 square feet or more with a fourth-floor step-back. A minimum step-back is not specified however the illustration on Page 2-25 of the Downtown Specific Plan show a building at a zero setback. The fourth-floor on Depot Street is setback 8-15 feet and 15 feet along Depot. The fifth-floor lofts are setback 16-19 feet from property line along Depot Street, providing a 5.5-foot set-back from the fourth floor below. The loft spaces on Fourth Street are setback 20 feet from property line. The building setbacks as proposed meet or exceed the minimum setback requirements.

The total building area is 130,175 square feet with an FAR of 1.82 and lot coverage of 57 percent. The maximum Floor Area Ratio FAR in the CBD zoning district is 2.25 and no coverage limitation is specified for the CBD zoning district. The building as proposed meets the FAR zoning limitations.

To respond to the City Council's request for additional commercial space, less office space and greater retail depths, the applicant increased the commercial space from 5750 square feet to 8051 square feet. This was accomplished by decreasing the leasing office space to 1250 square feet (previously 2000 square feet), increasing the commercial space depths to 45-55 feet (previously 21-40 feet) and expand the corner commercial space toward Depot Street. Per the Council's request to minimize the appearance of the leasing office on Third Street, the applicant has reduced the frontage width from 32 feet to 29 feet, recessed the office frontage 3.5 feet behind the adjacent commercial space, minimized the storefront windows and introduced a different architectural entry detail.

Building Height

The maximum height for a four-story building in the CBD zoning district is 55 feet. The majority of the proposed building is four story (50 feet) with eight, fifth story loft elements along the Depot and East Fourth Streets frontage. A five-foot height exception was allowed through the PD approval for ten loft spaces to reach a 60-foot maximum building height.

To respond to the City Council's request to minimize the appearance of the lofts the applicant has reduced the number of loft spaces from 10 to 8. Architecturally the loft spaces are now capped with a decorative cornice and window patterns similar to the lower floors.

Parking & Pedestrian Access

Two, gated, two-way vehicle access points to the underground garage are located on Depot Street. The garage will contain 129-standard (9 ft. x 18 ft.) parking stalls, of which 64 are tandem spaces, four handicap stalls and four with electric vehicle charging stations. Seven parking spaces are located outside of the gated area at the northern garage entrance for use by visitors and office staff.

Residential development with units 600 square feet or less require 1 space per unit, 601-1,350 square feet require 1.5 spaces and 1,351 square feet or greater require 2 spaces per unit. Based on the unit sizes provided, 119 spaces are required for the residential units. Parking required for office space is four spaces per 1,000 square feet. Parking required in the CBD zoning district for commercial development is 2.8 spaces per 1,000 square feet. In accordance with the Council Resolution 6640, the City will not require parking for new retail space within the downtown due to the existing parking surplus, so no new retail parking is provided. The CBD zoning district does not require guest parking.

The 1250 square feet of leasing office requires five spaces. The total required number of parking spaces for the residential units and office space is 124 spaces, a total of 129 spaces are provided in the below grade parking garage which addresses the Council's request to maximize the on-site parking.

The Fire Department has required curbside access areas on both the Third Street and Depot Street project frontage. To accommodate this request on Third Street, three existing on-street parking spaces will be eliminated and replaced with decorative paving extending from the plaza. The elimination and reconfiguration of this area will require coordination with the existing improvements which include the Sternberg light fixtures, decorative colored paving and decorative bollards adjacent to the existing parking along Third. Four to five curb-side parking spaces will also be eliminated on the west side of Depot Street as the existing parking pull-out will be marked for loading and unloading only, since this area will be required for ladder truck set-up.

The Council also requested the applicant provide a parking management plan. Per the attached parking management plan, each of the residential units will be provided a space within the basement parking garage. The plan explicitly asks the residents not to park in the adjacent public parking garage and requires each resident vehicle to have a number parking sticker that will assist in identifying residents who utilize the public parking garage for vehicle storage.

Pedestrian Access to and from the garage is provided through three stairwells access all floors and one elevator. At grade level, there are five pedestrian access points into the building; three of the five are ADA accessible. Bike storage for the residents is internal and located ground level (north side of southerly driveway). External bike racks are not shown along the commercial frontage. It is recommended as a condition of approval that 3-4 space bike rack be provided in proximity to the commercial space.

Trash Collection:

Trash collection is internal to the building with trash shoots provided on each floor. Trash is collected at ground level in a room located adjacent to the northern garage entrance. The trash room access is provided through both a man and eight foot by eight-foot roll-up door on Depot Street.

Utilities

Two mechanical and electrical rooms are located on each floor (including the garage) which will house the HVAC, electrical and plumbing. A 1500-gallon grease interceptor will also be provided in the sidewalk area of Depot Street at the south-east corner of the commercial space. Gas meters will be located external to the building on the west elevation behind the leasing office. Electric meters will be located within an electrical room within the basement parking level. The site transformer will be located below grade at the south corner of Fourth Street and Depot Street. Backflow devices and check valves for the commercial and residential fire service and landscape irrigation systems will be located on Fourth Street next to the parking garage landscape area. Landscaping is proposed as screening.

Lighting

Lighting within the plaza area will consist of low bollard lights and wall sconces on each column in addition to the Sternberg lights currently installed along Third Street. Additional lighting will be provided by recessed lighting located under the retail soffits along with accent lighting under the awnings. Wall sconce lights will be located adjacent to the entrances on Depot and Fourth Streets. The walkway along the west side of the project will be illuminated with bollards.

Signage & Awnings

Five awnings are proposed along the Third Street commercial frontage and three on Depot Street. The awnings extend three feet into the sidewalk area and extend 9-25 feet across the storefront openings. Two different types of awnings are proposed; commercial space to the east will have cantilevered flat awnings and the commercial space to the west will have angled fabric awnings. The flat awnings will have a charcoal gray color and the angled fabric awnings will be a dark green color. Both awning types will have a height clearance of at least ten feet. The project is proposing both blade signs and signs positioned above the awnings. As a condition of approval, a uniform sign program is required prior to occupancy of the commercial or office space.

Drainage

The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map designates the project site as Zone AE, which is an area subject to inundation by the one percent annual chance flood event (100-year flood). Per the implementation of the SWPP and other drainage standards implemented by the City, the project should not significantly increase storm water flows into the existing system. The project will include its own on-site detention that is required to be sized to maintaining pre-development

run-off conditions. Storm water runoff from the site would be collected via new two to 12-inch storm drains directed to underground rain tanks to be located within the 15-foot landscape setback along Depot Street, that will overflow into the City's existing storm water system. Storm water from the site would be directed to the City's existing 30-inch storm drain on Depot Street. Storm water would also be directed to bioswales along the property line on Fourth Street to reduce the amount of storm water runoff collected by the City's storm water system.

Any on-site systems (retention basins) would be required to be designed to detain a volume of water up to a 25-year storm event while releasing water at a rate reflective of the 10-year predevelopment flow. This design limits storm water flows off-site to less than 10-year predevelopment flows. The existing public storm water system is already designed to convey a 10-year storm event; therefore, the project should not significantly contribute to any additional flooding during the most frequent events. The final drainage system design for the project would be subject to review and approval by the City of Morgan Hill Public Works Department, who would confirm that the proposed drainage system for the project is consistent with the City's Storm Drainage Master Plan and standard storm water-related conditions of approval.

The project is proposing to bring the property out of the FEMA flood plain by elevating the site with fill one foot above the FEMA Base Flood Elevation (BFE), which will be memorialized through a FEMA Letter of Map Revision (LOMR). To maintain the FEMA LOMR approval, the perimeter of the project site including the openings leading into the underground parking, must maintain at all times the approved elevation of the LOMR. The project site has a base flood elevation of 347.8. The proposed entry grades leading into the below grade parking are required to meet the FEMA base flood elevations

Drainage from the structure is collected internally to the buildings (no external downspouts) and tied to the underground rain tanks and bioswales on Depot and Fourth Street.

Architecture:

The building will be of standard wood framed construction finished with a medium texture stucco and brick. The roof material is metal.

The structure is "U" shaped in form with the bottom and sides of the "U" adjacent to the Third, Depot and Fourth Street frontage. The interior of the "U" contains the project's outdoor amenities. The building roof line varies in height from 18 feet at the second floor above the commercial space, 29 feet at the third-floor terrace to 50 feet at the top plate of the fourth floor, 57 feet at the elevator and stairwell tower and 57 feet to the top of the lofts. The building incorporates both straight and pitched roof forms. Metal is proposed on the pitched roof forms and a 3-foot wide cornice detail with a 9-inch projection is proposed along the straight roof lines. A second cornice detail (2.5 feet wide with a 22-inch projection) with bracket is also proposed on various roof lines.

The greatest amount of vertical variation is on the Third Street elevation with a third story setback of 45 feet and the front elevation of the ground floor commercial at a zero setback with second floor balcony areas above recessed 12.5 to 17 feet in depth.

The setbacks on Depot Street range from 8-15 feet with 6-foot deep balcony recesses and 5-foot balcony offsets. The stairwell towers are recessed 29-feet from the Depot Street and Fourth Street property lines. The fifth-floor loft elements on Depot Street are setback 5.5-feet from the front face of the building below (16-20 ft. from the property line). On Fourth Street, the first-floor patio spaces are setback seven feet, with the face of the building setback 15 feet. The second through fourth floors are setback 15-18 feet from East Fourth Street with 5.5-foot deep patio recesses. The fifth-floor loft elements are setback 20 feet from East Fourth Street property line.

The majority of the building is architecturally defined by vertical columns of three to four feet in width. On Third Street, the ground floor commercial spaces are each fitted with a 25-foot by nine-foot wide metal storefront systems. The storefronts are recessed 12-18 inches behind the front face of the columns. The window frames and doors are proposed to be painted a dark brown accent color. The larger solid surfaces will be architectural treated with quarter inch channel grooves and windows are recessed 8-18 inches to add interest and depth to larger flat surfaces. To make the groove pattern more readable, it is recommended the channel grooves be increased to a minimum of half-inch wide by half-inch deep. An “eye brow” element has been introduced over each garage entrance on Depot, the resident entrance on Fourth Street, and over the main residential entry and leasing office entrance on Third Street. The awning styles also vary between the commercial space on the east and west side of the plaza; metal flat awning to east and fabric angled awnings on the west. The various floors are identified with cornice details that are to be painted with the medium trim color. The column footings are detailed with a bull-precast base and a vertical band of brick. A vertical brick detail is also proposed at the top of the columns. The fixed window areas surrounded by brick will be detailed with a vertical row of brick below and a smooth stucco cap above.

To respond to the City Council’s request for additional articulation on Depot Street the applicant has incorporated the eye-brow detail over the entries, recessed windows, recessed the elevator tower, incorporated storefront windows with awning on the commercial space, and incorporated decorative cornice at the second and fourth floor roof lines.

A color and material board will be available for review the night of the meeting. Product detail sheets are also attached for the Commission’s reference.

Landscaping:

The landscape plans submitted are conceptual in nature and do not include dimensions, material details and quantities. The plans include a landscape palette that primarily consists of low water use plants, including a variety of grasses and drought-tolerant shrubs. The plans also include numerous call-outs and photo details of landscape

features through-out the site which give a visual as well as a basic idea of where various landscape features will occur. For example, pottery planters are proposed along the project's commercial frontage and within the plaza and courtyard. A photo detail of the pottery is provided however information on the material, color and dimensions has not been provided. The landscape site plans also do not exactly coordinate with the architectural site plans as they do not correctly address the proposed street improvements along Third Street.

It is recommended the final landscape plans be reviewed and approved by the Community Development Director prior to the issuance of a building permit. The staff level review would ensure the appropriate quantities, size and quality of the proposed landscape elements.

Design Guideline Consistency:

Chapter 5 of the City's Downtown Specific Plan contains 32 pages of design guidelines specific to development within the downtown area. The Downtown Specific Plan design guidelines provides basic design principles and specific design guidelines to determine the appropriateness of proposed plans and architectural designs for the downtown. The applicable guidelines are summarized in the first column of following table. The second column includes an explanation of how the proposed building complies with the specified guideline.

Table

2009 Downtown Specific Plan Design Guidelines:	
Site Review Application SR 2017-0004: Depot-Sunsweet	
Basic Design Principles (Pages 5-1 thru 5-3)	
1. Buildings should reflect the character of Downtown Morgan Hill	The vertical column elements and the decorative cornices are common in the downtown architecture. The vertical rectangular openings are also reflective of the window/door rhythms found on buildings throughout the downtown. The metal elements along with proposed "Sunsweet" entry arch is representative of Morgan Hills agricultural past.
2. Buildings along Monterey Road and Third Street should be designed in an Architectural style compatible with traditional Main Street buildings.	The proposed building façade clad with brick contains large amount of recessed retail display and embellishments consistent with traditional "Main St." buildings
3. Structures and landscaping on neighborhood streets west of Monterey	NA

Road (i.e., West First, Second, Third, Fourth, and Fifth Streets) should be visually compatible with the existing small-scale residential character of the area.	
4. Buildings should provide a visual continuity of display windows along with architectural and landscape details to provide an interesting environment for pedestrians.	Building façade contains continuous display windows. Landscaping proposed includes casual seating at the plaza, pottery at vertical column. Post light and wall sconce along the 3 rd street to enhance the visual richness to the pedestrians. On-grade and raised planters are proposed along Depot and 4 th Streets to soften the building foundation.
5. Each structure should be uniquely designed for Downtown Morgan Hill.	Not a stock design; uniquely designed for Morgan Hill.
6. Signage should be appropriate to location and building character.	Blade signs are proposed at eye level on the columns adjacent to the individual tenant space. Attached lettering is also proposed over the awnings. Approval of a sign program is required under separate application review.
7. All buildings should utilize high quality materials and craftsmanship.	Brick veneer and the medium smooth stucco finish are both durable materials which will be of a high quality. The metal balcony guard rails, metal awnings and metal "Sunsweet" sign provide a craftsman detail to the proposed architecture. The precast stone proposed at the column bases and stairs is also known to be a durable material.
8. All streets should be designed to balance safety and aesthetics.	The street improvements along the Third Street frontage are completed but elimination of three on-street parking spaces is required to accommodate the Fire Department's requirement for street access in front of the proposed plaza space. The elimination and reconfiguration of this area will require coordination with the existing improvements which include the Sternberg light fixtures, decorative colored paving and decorative bollards adjacent to the existing parking along Third. The street improvements along the Depot Street frontage have also been completed but modifications will be made for access into the project parking garage and trash service access. As a condition of approval, any work will be required to replace and match the landscape

	and improvements completed on Depot. The existing parking pull-out along Depot Street will also be marked for loading only since the pull-out will also function as the additional street width required by the fire department to accommodate the outriggers on the ladder trucks needed for fire response on multi-story buildings. The Fourth Street improvements are only completed at the corner of Depot and Fourth. The project is required to complete the landscaping and sidewalk improvements along its Fourth Street frontage consistent with the existing improvements.
All Building Facades (Pages 5-4 thru 5-7)	
DG-A1. Construct buildings with both solid surfaces and window openings.	The building has both solid and open surfaces. Solid surface breaks in the retail fronts form a three foot wide column separation between potential retail units. A solid wall space 4-7 ft. wide is provided between windows on the south, west and east elevations.
DG-A2. Provide distinctions between each floor.	Distinction in floor height is provided through the change in height of the brick, change in window heights, change in window patterns, the use of metal balcony railing, and the placement of the lineal cornice pieces at various levels of the building façade.
DG-A3 Design external stairways to complement the buildings.	Stairways are proposed at the main building entrance on the south end of the plaza, the building entries on Fourth Street. The precast material proposed is the same material used for the column bases. The metal railings proposed adjacent to the stairways match the metal railings on the balconies.
DG-A4 Design the sides and rear of buildings to complement the front facade.	Similar materials, colors and shapes are repeated on all sides of the building. The west elevation of the leasing office sits on the property line and is void of articulation. In lieu of the proposed scoring, it is recommended that an art mural of the "Sunsweet" label be applied to this side of the building. The area (10 ft.) between the parking garage and commercial building also need to be addressed with fencing and landscaping.
DG-A5 Shutters should be designed to enclose the entire window or door	NA

opening when the shutters are closed.	
DG-A6 Building modifications should use the same materials, details, and color as the rest of the building.	NA
DG-A7 Limit the number of building materials used on the facade. General rule, no more than 3 materials.	Three building materials are proposed; stucco, brick and precast stone. Metal is used as an accent material on the roof, railing, awnings and the arch sign within the plaza.
DG-A8 Use appropriate materials such as brick, stone, tile, stucco or plaster, painted/stained wood trim, wood/metal frames for windows and wood/metal/glass doors. DG-A9 Avoid inappropriate building materials such as plywood, unfinished lumber, corrugated fiberglass, small tiles, shingles, cultured stone, rough finish materials, vinyl or aluminum siding, corrugated metal, reflective materials or manmade materials intended to simulate natural materials.	The structure is of a high quality, medium finish stucco and brick veneer. No inappropriate materials are proposed.
DG-A10 Changes in material should generally occur when there is a change in the plane of the facade.	The primary material are stucco and brick. The elevations show the wrap and termination of each material at appropriate locations. The proposed cornice pieces are also proposed to wrap and terminate at a change in the building plane.
DG-A11 Facades should have finishes and colors similar to those found on traditional buildings in Morgan Hill.	The color palate is of muted earth tones similar to other buildings within downtown.
DG-A12 The natural colors of brick and stone material should be maintained.	The brick is proposed in its natural color. Stone tile base is to be left in its natural color.
DG-A13 Muted and soft colors are encouraged.	Color palate is of muted earth tones
DG-A14 Limit the number of colors used on facades. Limit to one or two main colors and two to three accent colors.	Two base colors are proposed for the stucco surfaces with a consistent trim color used on the cornices. The metal elements (roof, railings, window frames, doors, etc.) are a deep, almost black, brown color.
DG-A15 Window openings should have vertical orientation and proportion.	The window shapes proposed have vertical orientations and proportions.
DG-A16 Basic and simple window shapes are encouraged.	The windows are framed and divided once vertically and once horizontally to create a simple open pattern. The commercial space openings are divided in a single three foot wide vertical pattern which is repeated in the vertically divided transom

	windows.
DG-A17 Follow the Secretary of the Interior Standards when renovating or modifying historic buildings.	NA
Mixed-Use Building Facades-CBD Zoning District (Pages 5-7 thru 5-13)	
DG-B1 Design Articulated Facades. Appropriate methods of articulation include, but are not limited to: • Increase the number and size of window openings. • Provide stylized windows and doors. • Create defined base • Create vertical and horizontal expression lines around storefronts and window openings. • Adding depth and detail to the cornice or roof parapet. • Recess storefronts and window into the façade to create depth and cast shadow patterns	Facades are articulated with brick and brick soldier coarse detail at the top and bottom of columns. Balcony openings and windows surrounded by brick have a smooth stucco cap and soldier coarse border. The footing of each column surrounded on three sides with a bull nosed precast stone detail which is 2-feet, 10 inches tall. Various window opening set in stucco are recessed 8-18 inches and have a decorative panel below. A two-foot tall cornice with a 9-inch projection caps the straight roof lines and second and third story balconies. A more ornate cornice with bracket details is proposed at various locations on each building elevation. The commercial store fronts are each recessed 12-18 inches. Each store front is further defined by brick columns with a wrapped, bullnose precast base. The store fronts are further distinguished through the variation in awning types; flat metal on the store fronts east of the plaza and cloth awning on the store fronts to west. The leasing office store front is distinguished by an eyebrow detail which is repeated over the main residential building entry on the south side of the plaza, over the garage and service entrances on Depot Street and the building entrance on Fourth Street.
DG-B2 Provide ground-floor storefront windows and vertically oriented upper-floor windows.	Each store front has continuous windows and the upper-floor windows have vertical orientations.
DG-B3 Emphasize display windows and store front entries. Prominent display windows Display window lighting Entry doors complement design of storefront	Along the retail frontage each column will have a wall sconce light and planter at the base. Each store front has prominent display windows and entry doors that complement the store front design. Store fronts facing the east and west

Planter boxes below windows.	sides of the plaza will have retractable frame doors and aluminum store front windows. Exterior lighting will be provided by wall sconces casting light up and down on each column, post lights along the third street, plus soft accent lighting will be provided under the awnings.
DG-B4 Create a continuous street wall.	Commercial space has repeated storefronts to create an interesting pedestrian environment. A break in the continuous wall occurs because of the 45-foot setback of the main residential entry creating the 2580 sq. ft. plaza area.
DG-B5 Design storefronts with traditional “Main Street” elements. Such elements include: Recessed entry door(s), display windows, kick plate or bulkhead and transom windows.	Each store front opening is recessed 12 to 18 inches and will have full length window openings as well as upper transom window.
DG-B6 Provide architectural details to enhance the visual interest of commercial facades. Examples include: Projecting cornice, bay windows, decorative belt courses, moldings around windows and planter boxes under windows.	In addition to the 9-inch projecting cornice, the elevations include a decorative brick soldier course at the upper and lower portions of the columns and at various window locations. A decorative 36-inch stucco detail is also proposed above the third-floor window above the leasing office storefront. Quarter inch wide score marks are proposed within the upper stucco finish to create a vertical column pattern. Half inch x half inch score marks are recommend for greater visual impact. Balcony openings and windows surrounded by brick, have a smooth stucco cap and soldier course border.
DG-B7 Building articulation features are encouraged. Examples include: Three-dimensional wall projections, horizontal expression lines, building columns, details and cornice treatments.	The two types of cornice details, awnings, building and balcony recesses that provide variation in the façade depth. Horizontal expression is achieved through the placement of the cornice at varying heights and through the repetition of the balcony placements.
DG-B8 Provide special accent design elements for corner buildings. Store fronts should be recessed by at least 6 inches and the width of the structural bays should not exceed their height.	The single-story corner commercial space includes 12 inch recessed storefront windows. This space is further setback 9.5 feet on Third Street and four feet from Depot Street. which softens the visual appearance at Third Street and Depot Street.
DG-B9 Design structural bays and recessed storefronts on ground floor facades.	Store fronts are recessed 12-18 inches. Each storefront bay is 9-25.5 feet wide and 10 feet tall at a regular repeated pattern.

DG-B10 Provide upper floor and secondary entrances and windows.	Secondary entrances are provided for the ground floor units along Depot and Fourth street.
DG-B11 Operable windows and French doors are encouraged for restaurants.	Store fronts facing the east and west sides of the plaza will have retractable frame doors and aluminum store front windows to facilitate restaurant use of the plaza space.
DG-B12 Provide off-street courtyards.	A 2580 square feet plaza measuring 60 feet wide and 44 feet deep is provided.
DG-B13 Façade Rehabilitation	NA
DG-B14 Railroad Corridor Special Guidelines	NA NA
Block 4 Special Guidelines-Including Sunsweet Site (Pages 5-15 thru 5-16)	
DG-D1. Construct appropriate uses. Uses limited to retail shops, restaurants (strongly encouraged), bars, and shops serving rail commuters	The commercial space is designed with 14-foot ceiling heights and retractable storefronts facing the plaza access creating a desirable space for restaurants or other retail uses.
DG-D2 Construct appropriate buildings- Minimum of 2 stories in height and a maximum of 4 stories	The building is four stories consistent with guidelines but fifth floor lofts at 8 locations have been introduced as part of the approved maximum 10 locations on PD plan.
DG-D3 Ground Floor Retail- Minimum of 50 ft. deep	The 8051 square feet of commercial space is 45 feet deep. The five-foot reduction in depth was approved as part of the PD plan.
DG-D4 Provide a high-quality design. Development should be constructed to look like multiple developments rather than one large development. Façade articulation should keep prevailing pattern of 40-50 ft. in width and reflect the traditional characteristic of downtown Morgan Hill	The commercial store fronts are each recessed 12 – 18 inches. Each store front is defined by columns, creating 14 feet, 20 feet and 30 feet bays. The store fronts are further distinguished through the variation in awning types; flat metal on the store fronts east of the plaza and cloth awning on the store fronts to west. The leasing office store front is distinguished by an eyebrow detail which is repeated over the main residential building entry on the south side of the plaza, over the garage entrances on Depot Street and the building entrance on Fourth Street.
DG-D5 No customer or resident parking entrances along Third Street.	No vehicle entrances are proposed on Third Street. along the project frontage. Entrances to the garage are on Depot Street.
DG-D6 Provide public parking.	The project is providing 129 parking spaces within a below grade garage. The minimum

	number required for the residences is 119. The 1250 sq. ft. leasing office requires five spaces for a required total of 124 spaces. Five spaces are available within the parking garage for the use of the office staff and visitors.
DG-D-7 Design a consistent roof design for the entirety of each building. Employ different roof designs the break up the massing.	The building incorporates both a flat and pitched roof design. The lineal view of the roof line will be further articulated with the projection of the fifth-floor lofts.
Roofs (Pages 5-16 thru 5-17)	
DG-E1 Construct roofs that are compatible with the building's character. Appropriate types include: Slate shingles, galvanized metal, non-reflective aluminum, asphalt shingles, and other materials of similar quality, durability and character. Discouraged materials include; Vinyl, plastic, fiberglass and plywood.	Roofing material proposed is standing seam metal of the dark gray color as other metal features.
DG-E2 Design a consistent roof design for the entirety of each building.	The roof design mixes both flat and pitched. Both are mixed consistently through-out the project.
DG-E3 Construct gutters and downspouts that are compatible with the building's character.	Rain water will be collected through a drain system to the underground rain tanks internal to the structure.
DG-E4 Minimize the public view of downspouts.	External downspouts are located in the least conspicuous location to avoid public view.
DG-E5 Screen rooftop mechanical equipment from public views.	Mechanical equipment is internal to the structure. Venting for the proposed restaurant space is located on single story portion of the commercial space on Depot Street, behind a three-foot tall parapet wall.
DG-E6 Design appropriate roof overhangs.	Roof overhang is proposed on the pitched roof elements on Depot and Fourth Streets. The proposed overhang is 12-inches.
DG-E7 Paint vent pipes to minimize public view.	All vents visible above the three-foot tall parapet wall are required to be painted to match.
Awnings and Marquees (Pages 5-18 thru 5-19)	

DG-F1 Construct appropriate awnings and marquees. The front face of the awning should not exceed 18 inches in height.	The front face of the metal awnings is 8 inches in height. The front face of the canvas awnings is 10 inches in height.
DG-F2 Use compatible materials. Fabric awnings are strongly encouraged. Metal awnings, shiny fabrics and backlit awnings should be avoided.	The awnings are both canvas and metal.
DG-F3 Use multiple awnings instead of one large awning. All awnings should have a consistent design, color and placement.	Eight awnings are proposed extending 9 - 25 feet across each storefront opening. Each awning will be the same color, placement and the awning frame and hardware will be painted the same color.
DG-F4 Use compatible materials.	All awnings will have the frames painted the same color.
DG-F5 Construct awnings with an appropriate height. The height of the awning should be approximately 1/3 to 2/3 the depth of the awning.	Each awning is 3 feet in depth and placed 10 feet above the sidewalk. The proposed 10 foot height and 3 foot depths meets the 1/3-2/3 ratio.
Outdoor Open Space (Page 5-22)	
DG-J1 Construct appropriate open space areas.	The 2580 square foot outdoor plaza area measures approximately 60 feet wide by 45 feet deep. The space is large enough to accommodate table and chairs for outdoor seating to be utilized by the adjacent commercial spaces. The orientation and height of the building will not allow for views from the plaza. The majority of the balcony spaces through-out the building will have views of the east and west hillsides. The plaza space is not covered but is flanked on three sides by the proposed building creating a protected space that can be heated with patio heaters or cooled through the use of umbrellas. The plaza space also functions as the main entrance into the residential project. Residents will have access to open space within the private courtyard of the building.
DG-J2 Design open spaces to be used throughout the year.	
DG-J3 Construct open spaces to take advantage of views.	
DG-J4 Design outdoor open spaces with a sense of enclosure.	
DG-J5 Provide connections between open spaces on adjacent parcels.	
Service Areas (Page 5-23)	
DG-K1 Construct service areas away from public view.	Trash collection is internal to the building. The trash room is accessible through roll-up door & man door located on the Depot Street elevation. The roll-up door is 8 feet tall and 8 feet wide.

	recessed 12 inches and painted to match precast stone color.
DG-K2 Design compatible trash enclosures.	NA
Mechanical and Electrical Equipment (Page 5-23)	
DG-L1 Construct service areas away from public view. The following shall be screened from view from the public right of way, pedestrian walkways, plazas and public spaces: • Electric and water utility meters • Power transformers and sectors. • Heating, ventilation and cooling equipment. • Irrigation meters and backflows • Satellite dishes greater than 18 inches. • Antennas • Roof top mechanical equipment	The gas meters will be located behind the leasing office building behind fenced areas not visible to the public right of way. The water meters with backflow preventers will be located below grade in the landscape in front of the Third Street westerly commercial building sidewalk area. The electric meters will be located within an electrical room at basement parking level. The transformer for the project is located at the south corner of Fourth Street and Depot Street. The project HVAC units will be located interior to the building. The irrigation backflow and meters will be located Fourth Street near the fire department connection and screened with landscape. The project's double detector check valve for fire is located on Fourth Street next to the parking garage landscape area.
Landscaping (Pages 5-24 thru 5-26)	
DG-M1 Provide landscaping in appropriate areas. All unpaved portions of the site that are visible from public streets, sidewalks or plazas shall be landscaped.	All unpaved portions of the site are proposed to be landscaped.
DG-M2 Provide a variety of vegetation. Landscaping treatments should include a	The landscape palette primarily consists of low water use plants, including a variety of grasses

combination of trees, grasses, shrubs, and flowering plants.	and drought-tolerant shrubs. Flowering grasses, such as Anigozanthos spp. (Kangaroo Paw) are proposed to add accents of color. More colorful flowering plants are proposed to be planted in pottery.
DG-M3 Avoid over-spray from automatic irrigation systems.	This requirement is stated as a condition of approval. Currently, all irrigation proposed is drip irrigation.
DG-M4 Provide at least 7 feet of vertical clearance between branches and sidewalk.	This requirement is stated as a condition of approval.
DG-M5 Construct an adequately sized planting area for all trees.	The current plan proposes (Armstrong Red Maple) along Third Street. These trees are deciduous, columnar in form with a spread of 15-25 feet. They are the same trees planted in front of the City's commercial space to the west however the current street trees along Third Street are to remain with the exception of the plaza extension/fire access area required along Third. It is recommended that additional Red Maples be provided with an informal spacing along the plaza frontage. No new trees are proposed along Depot Street due to the location of the underground detention tanks. Existing trees within the park strip are to be retained and any trees removed due to project access improvement will be replaced with matching species, minimum 15-gallon size.
DG-M6 Replace mature significant trees removed from the site. When significant trees or tree communities are removed from a site, they should be replaced with new trees or tree communities (on- or off-site) in accordance with any conditions of approval and with Chapter 12.28 (Tree Planting Plan)	No mature significant trees exist on the site.
DG-M7 Maintain landscaped areas.	This requirement is stated as a condition of approval.
DG-M8 Construct tree wells and grates for trees near a pedestrian walkway or plaza. Trees planted in front of mixed-use, retail, or office buildings should be planted in tree wells with metal tree grates or in	Tree grates specified for the plaza will match the grates used along Monterey Rd. and the adjacent parking garage project.

planters similar to those along Monterey Rd.	
DG-M9 Surface parking lot landscaping.	NA
DG-M10 Plant appropriate trees near parking areas.	NA
DG-M11 Construct public art in landscaped areas. Public art and interpretative heritage plaques and kiosks should be incorporated into landscaped areas to highlight Morgan Hill's unique history and heritage.	The public art proposed with the project is the metal arched sign over the project plaza. The applicant is currently seeking permission from the Sunsweet Corporation for use of the name. A detail of the sign will be review and approved by the Community Development Director.
DG-M12 Construct flowerpots and planter boxes. Flowerpots and planters are encouraged on porches, second-story balconies, and below windows. All flowerpots and planter boxes should be compatible with the architecture style of the building.	Pottery is proposed at the retail frontage along Third Street. Raised planters are proposed along the Fourth Street frontage. The planters are constructed of brick and are approximately 36 inches tall by 72 inches wide.
DG-M13 Design appropriate landscaping. Properties should be landscaped with indigenous or drought-tolerant plants and trees that can grow in the microclimate of Downtown Morgan Hill. Plants and trees should be adaptable to the site's location, soil, and solar orientation.	A drought-tolerant plant palate has been provided consisting of grasses and low-water use shrubs. These plants are consistent for use in the site's USDA and Sunset zones. Solar exposure on all sides of the property will be considered when locating plants.
DG-M14 Design developments to incorporate mature landscaping. When feasible, mature and healthy trees, landscaping, and natural site features should be preserved and incorporated into the design of the site and building.	No mature landscaping currently exists on the site. The existing landscaping within the public right of way surrounding the site will be preserved to the greatest extent possible. As condition of approval, any damaged plants or trees within the public right of way shall be replaced to the satisfaction of the Community Development Director and Public Works Director.
DG-M15 Construct service areas away from public view. Special design features should be incorporated into the design of parking lots.	A ramped service area is provided on the Depot St. side of the project on the south side of the commercial space. The ramped area provides access for resident move in and back of house for restaurant use in the adjacent commercial space. This area is recessed and screened by a wall with an arched entry.

Site Lighting (Pages 5-28 thru 5-29)	
DG-01 Provide lighting in appropriate areas. Illumination shall conform to the City of Morgan Hill Zoning Code. The following areas shall be illuminated at night to insure the safety of users and to minimize opportunities for crime: intersection of streets, surface parking lots, parking structures, including access points, elevators, and stairwells, pedestrian walkways and paths, plazas, sidewalks including side streets leading to parking lots, automated teller machines (ATMs), all entrances to buildings, including rear and service entrances, garbage disposal areas, and other areas that are routinely used by pedestrians. Illumination of street trees and ornamental landscape trees is encouraged.	Lighting within the plaza area will consist of low bollard lights in addition to the Sternberg lights currently installed along the Third St. frontage. Lighting within the plaza space is a minimum of 2 foot candles per the city requirements. Lighting at the garage entries will be a minimum of 5 foot candles. Lighting at the residential building entries will be low bollards and recessed wall lights. All external walkways shall be illuminated to a minimum of 1 foot candle. The commercial buildings will also have wall sconces on each column and accent lighting under each awning.
DG-02 Design lighting to illuminate only the intended areas.	The Sternberg fixtures cast the light in a 360-degree radius. These lights exist at 40-50 feet intervals along the Third Street and Depot Street frontage. Additional Sternberg fixtures will be installed along Fourth St. to match existing improvements to the west. The next type of lighting, moving inward into the plaza, will be low bollard lights. Up/down casting wall sconces are proposed on the front the commercial buildings and vintage style fixtures are proposed at the entrances on Fourth Street. and Depot Street. The walkway along the west side of the project will be illuminated by low bollard lights.
DG-03 -03. Avoid light and dark pockets. Lighting should be provided at regular intervals to improve the perception of safety and to prevent the creation of light and dark pockets.	Lighting will be provided at regular intervals along the Depot Street, Fourth Street, and west side of the structure at 1-2 foot candles and along the front facade of the commercial buildings.
DG-04 Avoid over-lighting buildings and sites.	The most intense lighting would come from the street lighting along the Third Street plaza. The light proposed on the building façade will be less intense and have a warmer color. This less intense lighting will transition to the lighting along the perimeter of the proposed residential and commercial structure.

DG-05 Provide storefront window lighting. Lighting within storefront windows is encouraged to illuminate the sidewalk and create a desirable nighttime ambience.	Internal storefront lighting will be required as part of the lease agreement for the commercial tenants.
Plazas, Pedestrian Walkways, and Courtyards (Pages 5-29 thru 5-30)	
DG-P1 Use ornamental surfaces that are different from the sidewalk. All plazas, pedestrian walkways, and courtyards should be designed with an ornamental surface that is differentiated from the sidewalk and asphalt streets and parking lots. Appropriate types of ornamental paving include: natural stone, turf block, brick, slate, concrete unit pavers, and concrete with special textures, colors, and patterns. Use ornamental surfaces that are different from the sidewalk.	The walkway along the west side of the structure is proposed of pewter integral colored concrete with a tooled scoring pattern. The plaza area would use sand-set interlocking pavers with a pattern to complement the existing brick pavers found on Third Street. The internal open space area proposes gravel-set interlocking pavers in varying shades of gray, porcelain wood-effect tile in brown, and pattern porcelain tile in white with black pattern. As a condition of approval field approval of the walkway finish and color is required prior to installation to insure coordination of design.
DG-P2 Provide active ground floor uses around plazas and courtyards. At least two sides of a plaza or courtyard should be defined by building facades with active ground floor uses (such as restaurants, retail stores, cafes, bars, etc.). Edges not defined by building facades should be defined with landscaping features, such as trees, low planters, seating, a pergola with vines, or sculptures.	The proposed plaza area is framed by building façades on its east, west and south sides. The main entrance to the residential structure will also provide a constant pedestrian draw through the plaza The commercial space to the east has been designed to specifically attract a restaurant use that will utilize the outdoor seating area in the plaza. The proposed arched “Sunsweet” sign acts as a defining entry feature into the plaza space.
DG-P3 Provide lighting in appropriate areas. All plazas and courtyards shall be designed with pedestrian amenities, such as seating, dining tables with umbrellas, planters, trees, vine covered pergolas, pedestrian scaled lighting, public artwork, outdoor fire places, and fountains. Provide lighting in plazas.	Sternberg fixtures exist along Third St. and Depot St. where vehicle and pedestrian traffic will be greatest. The project will complete the installation of the Sternberg fixtures along Fourth Street. The plaza improvements include enhanced paving, lighting, and planting. Any additional enhancements, such as outdoor televisions, will be provided by commercial space tenants. Dining tables and umbrellas are not included as part of the plaza improvements. Opportunity for outdoor dining has been incorporated into the plaza space in front of the proposed commercial space. Tables and umbrellas would be provided by future tenants.
DG-P4. Provide lighting in plazas. Plazas	In addition to the Sternberg fixtures, low bollard

should be illuminated from dusk to dawn. A combination of overhead lighting and lighted bollards are encouraged.	lights are proposed along with recessed wall lights. Wall sconces are proposed at each column feature on the new commercial spaces along with the under-awning lighting and the lease requirement for illuminated store fronts.
DG-P5. Construct water, public art, or sculpture features in public plazas. Water features, such as fountains, or installations of public art, such as sculptures, are encouraged for the design of larger public plazas.	-The overhead arch “Sunsweet” sign will function as public art piece which will give recognition to the sites historical use and Morgan Hills agricultural past. A detail of the sign will be review ed and approved by the City’s Library, Culture and Arts Commission <u>and advisory comments forwarded</u> prior to approval by the Community Development Director prior to occupancy of the building. Additional opportunity exists for public art on the west elevation of the leasing office space. It is recommended a mural of a Sunsweet packing label be included on the west elevation of the westerly commercial space. The mural design will have to be reviewed by the City’s Library, Culture and Arts Commission <u>and advisory comments forwarded</u> prior to approval by the Community Development Director prior the occupancy of any of the commercial or leasing office space.
DG-P6. Provide hard and soft surfaces in plazas and courtyards. A combination of hard and soft surfaces should be incorporated into the design of plazas and courtyards to add visual interest and variety.	Hard surfaces include interlocking pavers and colored concrete. Soft surfaces include on-grade landscape areas.
DG-P7. Provide public art and interpretative plaques.	The proposed arched “Sunsweet” sign will provide as public art and act a defining entry feature into the plaza space.
Outdoor Dining (Pages 5-31 thru 5-32)	
DG-Q1. Encourage outdoor dining areas. Outdoor dining areas are strongly encouraged along the sidewalks on Monterey Road and Third Street, and alongside streets where restaurants or similar uses are developed.	The setback provide for the residential main entry has provide opportunity for a 2580 square foot plaza and outdoor dining opportunity between the two retail buildings. The retail spaces adjacent to the plaza will include retractable store fronts on their plaza facing elevations which is conducive to attracting restaurant or fast food uses with outdoor dining. The design of the commercial building with the full operable store fronts is conducive to

	attracting restaurant uses with outdoor dining.
DG-Q2. Provide sufficient sidewalk clearance. Provide a minimum sidewalk clearance of 5 feet, measured between the building and fixed objects.	Street furniture is proposed to match existing adjacent furniture on Third Street and pottery is proposed along the retail frontage. Details and placement of the furniture is required as a condition of approval.
DG-Q3. Provide attractive barriers in appropriate areas. Barriers, such as fences, gates, or ropes, should be used to clearly distinguish the seating area from the sidewalk.	Barriers are not proposed within the current plaza design. The placement and use of barriers in front of the commercial space is not known at this time. Building tenants proposing outdoor seating will have to comply with the guideline.
DG-Q4. Design appropriate barriers. Barriers should be at least 36 inches in height	The placement and use of barriers in front of the commercial space is not known at this time. Building tenants proposing outdoor seating will have to comply with the guideline.
DG-Q5. Provide appropriate furniture. Tables and chairs, umbrellas and overhead heaters should be provided in outdoor seating areas.	Amenities provided in the plaza area include benches, tables, and leaning bars at various locations at Third Street. The type of tables, chairs, umbrellas, etc. is unknown at this time. Building tenants proposing outdoor seating will have to comply with the guideline. The internal open space will feature a pool, gas BBQ, bar-height counters, fire pits, synthetic turf flex space, and a pergola.
DG-Q6. Provide appropriate tables and chairs.	The type of tables, chairs, umbrellas, etc. is unknown at this time. Building tenants proposing outdoor seating will have to comply with the guideline.
DG-Q7. Provide appropriate furniture. High quality canvas umbrellas are encouraged.	Umbrellas are not proposed as part of the plaza improvements. The type of umbrellas proposed for outdoor dining is unknown at this time. Commercial building tenants proposing outdoor seating will have to comply with the guideline.

RECOMMENDATION

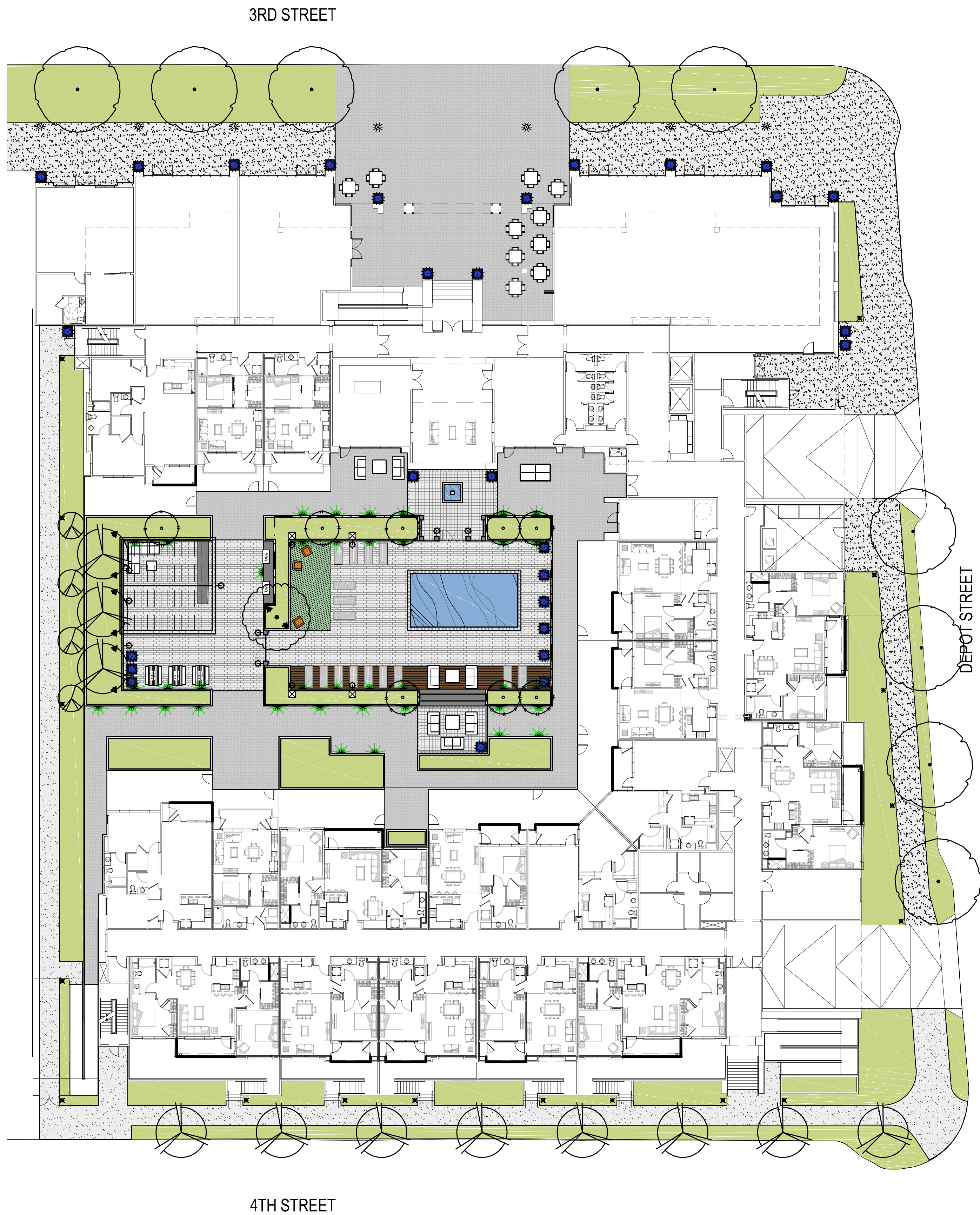
The proposed building plans have been developed in compliance with the Downtown Guidelines. The proposed site, architectural and landscape plans fit the design criteria and can be found in substantial compliance with the Downtown Specific Plan Design Guidelines and the City's Design review ordinance and it is recommended the

Commission recommend City Council approval subject to the conditions contained within the attached resolution.

C:\Users\tlinder\AppData\Local\Temp\MinuteTraq\morganhillca@morganhillca.IQM2.com\Work\Resolutions\1074.doc

LINKS/ATTACHMENTS:

1. 3 17 LANDSCAPE CONCEPT
2. Resolution
3. 3 16 17 Plans
4. Parking Demand Mgmt Ltr
5. Vicinity Map
6. Arch details
7. Lights, rails, awnings and signs



SUNSWEEET MIXED USE

Morgan Hill, California

0 10 20 40
SCALE: 1" = 20'-0"

L1

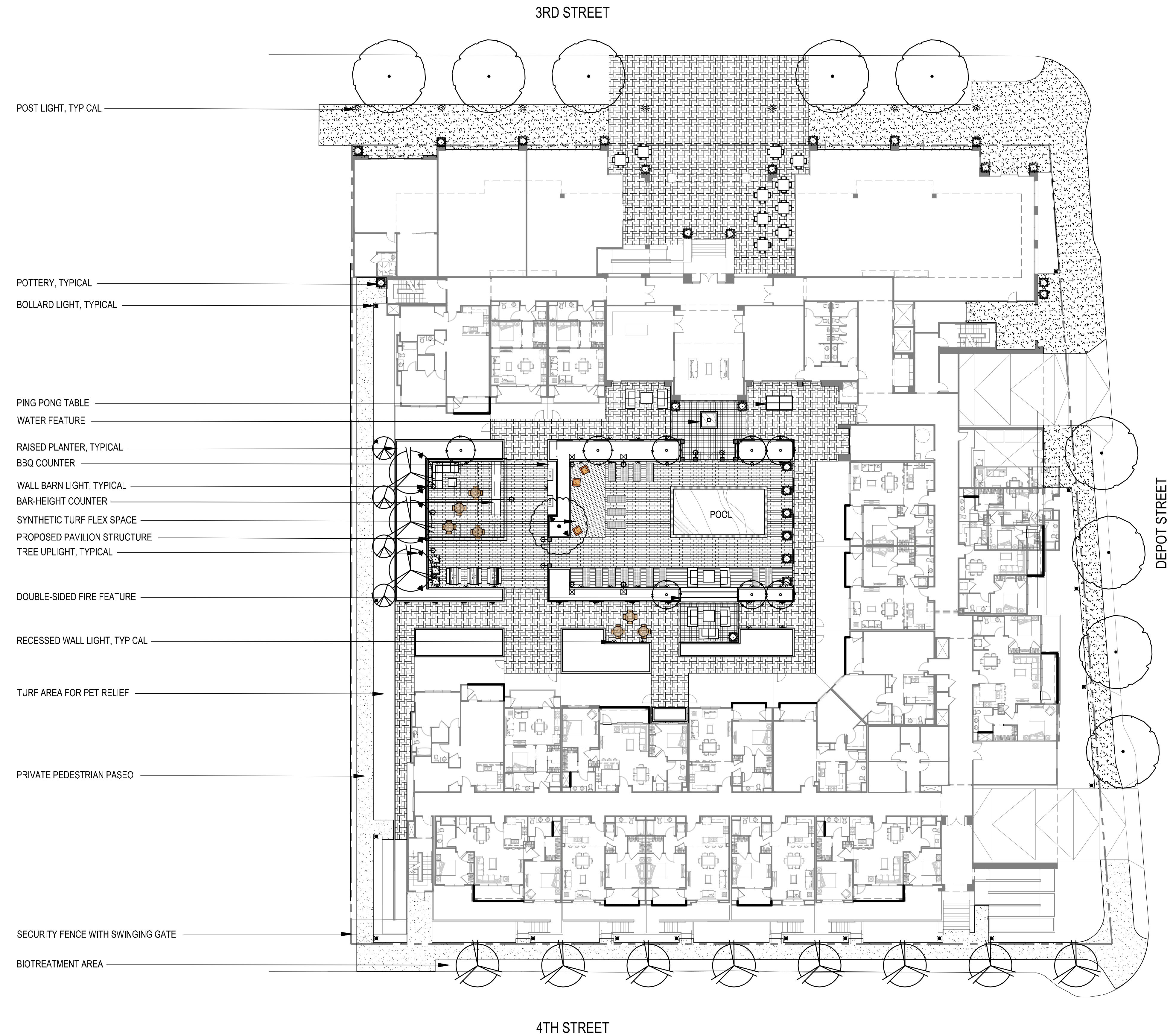
MHengineering Co.
16075 Vineyard Blvd., Morgan Hill, CA 95037

HMH
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

Bassenian | Lagoni
ARCHITECTURE • PLANNING • INTERIORS
Copyright 2016 Bassenian | Lagoni Architects

**PODIUM AND
PERIMETER
LANDSCAPE
CONCEPT**
03.15.17



PLANTING LEGEND

SYMBOL	BOTANICAL NAME
TREES	
	ACER RUBRUM 'ARMSTRONG'
	CERCIDIUM X 'DESERT MUSEUM'
	FAGUS SYLVATICA 'RED OBELISK'
	PODOCARPUS ELONGATUS 'MONMAL'
	QUERCUS ROBUR 'FASTIGIATA'

LARGE SHRUBS (BACKGROUND PLANTING)

	LEUCADENDRON SALIGNUM 'BLUSH'
	PHLOMIS FRUTICOSA

MEDIUM SHRUBS

	AGAVE 'BLUE FLAME'
	AGAVE 'BLUE GLOW'
	CALAMAGROSTIS 'KARL FOERSTER'
	CHONDROPETALUM TECTORUM
	TRICHOSTEMA LANATUM
	VERBENA BONARIENSIS

SMALL SHRUBS

	DIANELLA LITTLE JESS™
	LIBERTIA PEREGRINANS
	LOMANDRA BREEZE
	NEPETA RACEMOSA 'WALKER'S LOW'
	SESLERIA AUTUMNALIS

GROUNDCOVERS

	SEDUM RUPESTRE 'ANGELINA'
	SENECIO MANDRALISCAE

BIO TREATMENT AREA PLANTING

	JUNCUS PATENS 'ELKS BLUE'
	LOMANDRA BREEZE

POTTERY

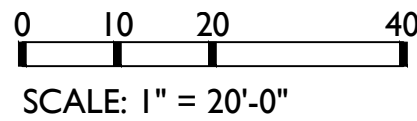
	AGAVE 'BLUE GLOW'
	ECHEVERIA DERENBERGII
	SENECIO MANDRALISCAE
	SESLERIA AUTUMNALIS

- NOTES:
- SEE SHEET L4 FOR MATERIALS IMAGES.
 - SEE SHEET L5 FOR CONCEPT IMAGES.
 - SEE SHEET L6 FOR PLANTING LEGEND AND NOTES.
 - SEE SHEET L7 FOR PLANTING DETAILS.
 - SEE SHEET L8 AND L9 FOR HYDROZONE PLAN.
 - SEE SHEET L10 FOR IRRIGATION DETAILS.

PODIUM AND PERIMETER LANDSCAPE CONCEPT
03.15.17

SUNSWEEET MIXED USE

Morgan Hill, California



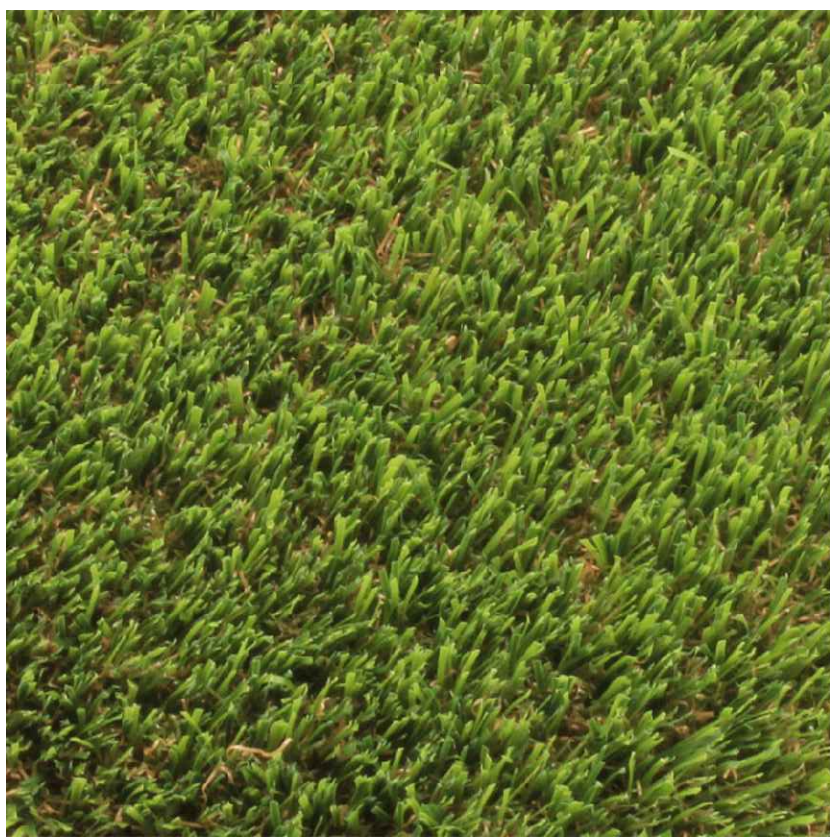
L2

MHengineering Co.
16075 Vineyard Blvd., Morgan Hill, CA 95037

HMH
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

Bassenian Lagoni
ARCHITECTURE • PLANNING • INTERIORS
Copyright 2016 Bassenian | Lagoni Architects



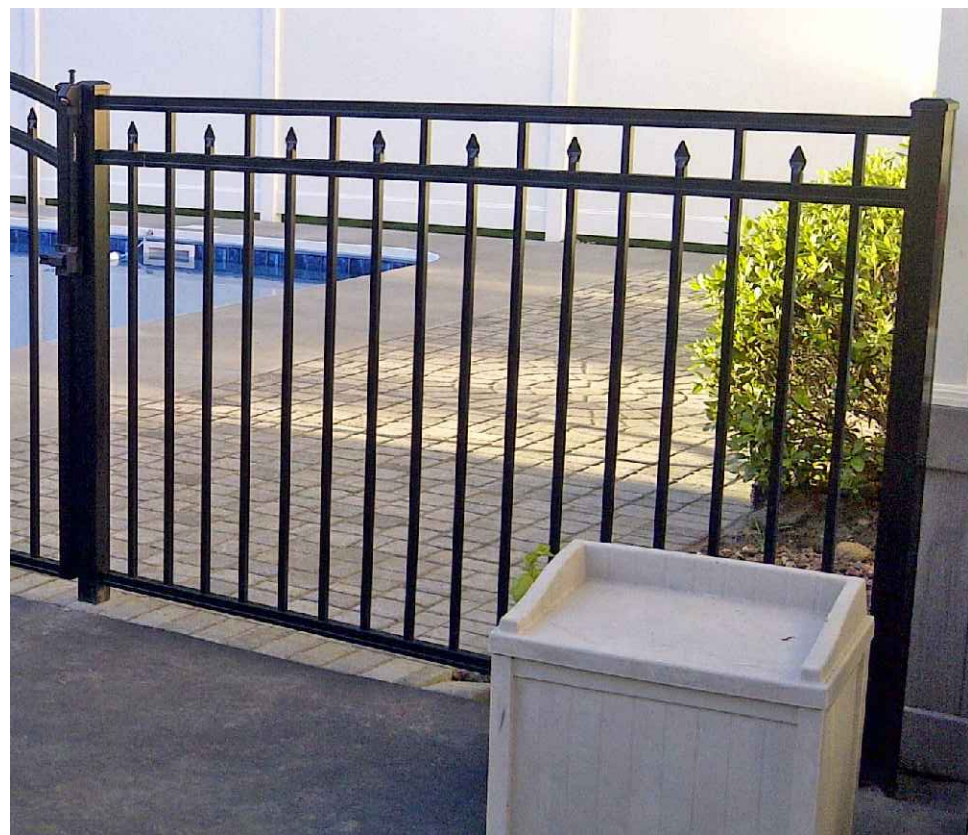
PROPOSED PAVING TYPES



PROPOSED LIGHTING



PROPOSED POTTERY



PROPOSED WALL MATERIALS

PROPOSED FENCING

MATERIALS IMAGES

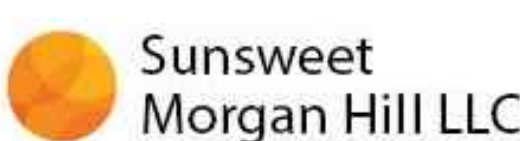
SUNSWEEET MIXED USE

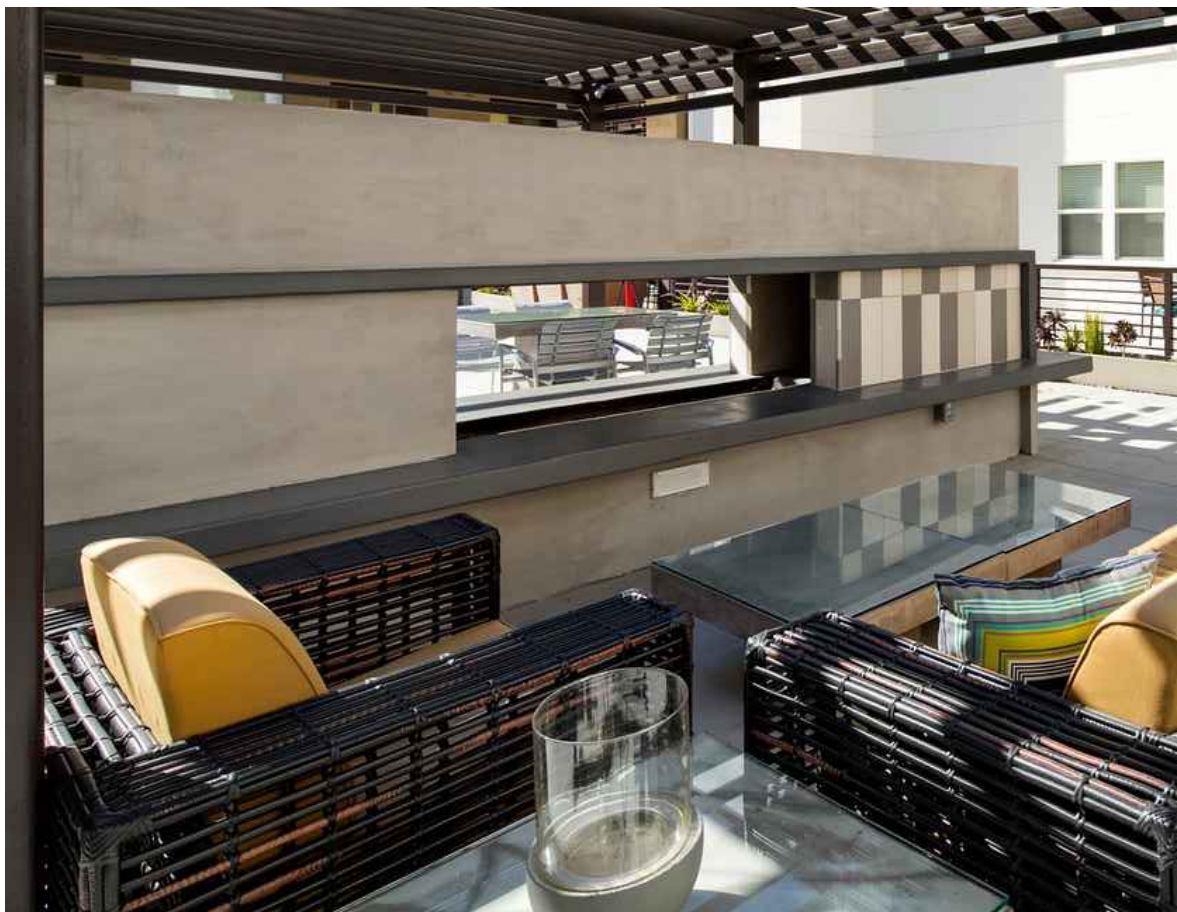
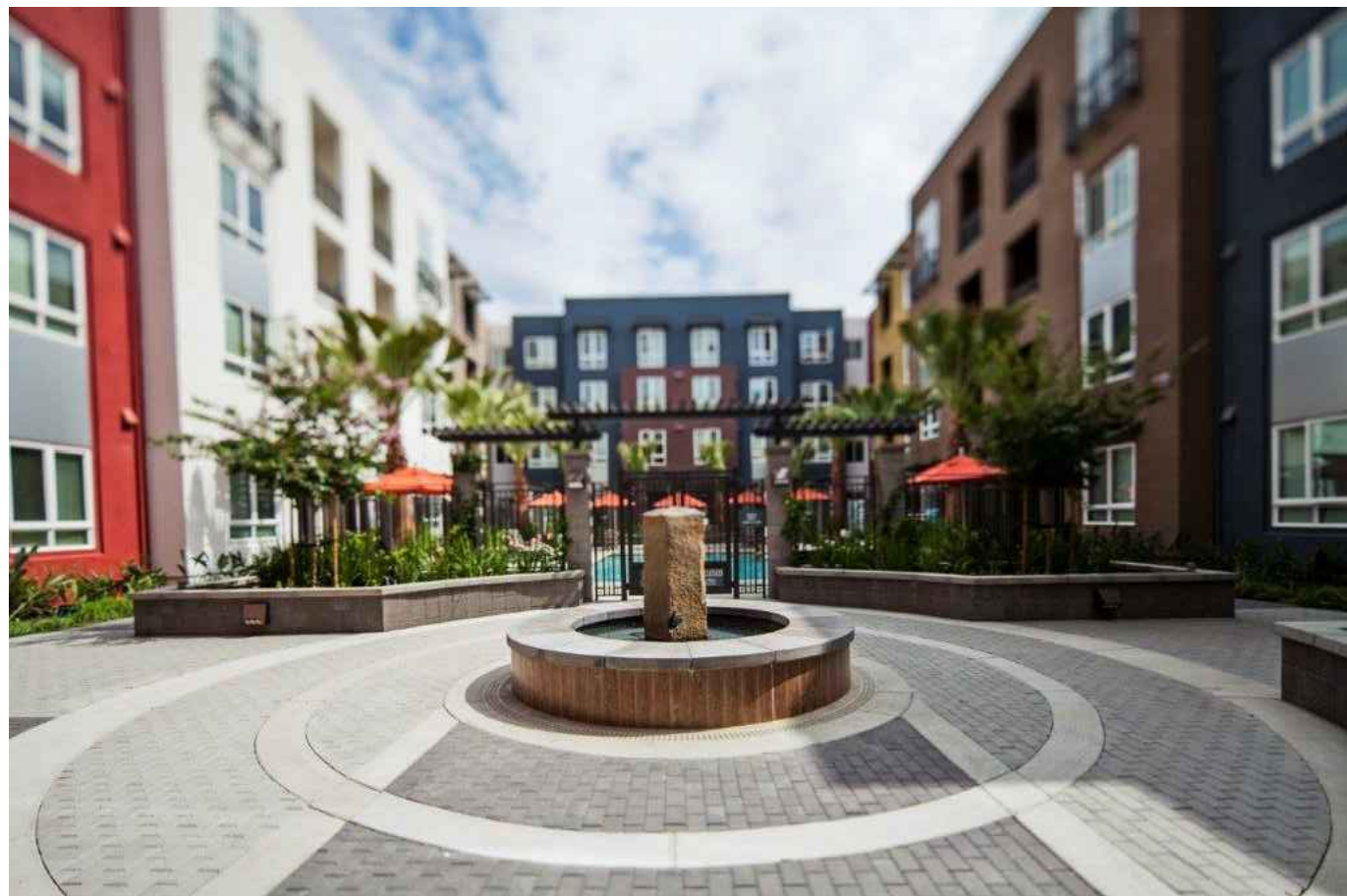
Morgan Hill, California

0 10 20 40
SCALE: 1" = 20'-0"

L3

03.15.17

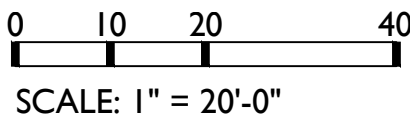




CONCEPT IMAGES

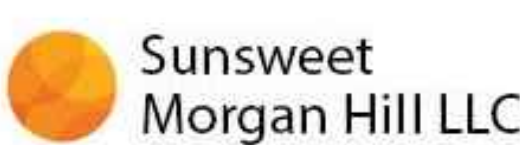
SUNSWET MIXED USE

Morgan Hill, California



L4

03.15.17



SYMBOL	BOTANICAL NAME	COMMON NAME	MINIMUM SIZE	HABIT/DESCRIPTION	WUCOLS
TREES					
	ACER RUBRUM 'ARMSTRONG'	ARMSTRONG RED MAPLE	24" BOX	COLUMNAR GROWTH	M
	CERCIDIUM X 'DESERT MUSEUM'	DESERT MUSEUM PALO VERDE	48" BOX	GREEN BARK	L
	FAGUS SYLVATICA 'RED OBELISK'	RED OBELISK BEECH	24" BOX	COLUMNAR	M
	PODOCARPUS ELONGATUS 'MONMAL'	ICEE BLUE YELLOW-WOOD	24" BOX	BLUE FOLIAGE	M
	QUERCUS ROBUR 'FASTIGIATA'	FASTIGIATE ENGLISH OAK	24" BOX	COLUMNAR	M
LARGE SHRUBS (BACKGROUND PLANTING)					
	LEUCADENDRON SALIGNUM 'BLUSH'	WILLOW CONE BUSH	1 GALLON	RED FOLIAGE	L
	PHLOMIS FRUTICOSA	JERUSALEM SAGE	5 GALLON	YELLOW FLOWERS	L
MEDIUM SHRUBS					
	AGAVE 'BLUE FLAME'	BLUE FLAME AGAVE	5 GALLON	BLUE-GREEN FOLIAGE	L
	AGAVE 'BLUE GLOW'	BLUE GLOW AGAVE	5 GALLON	BLUE-GREEN FOLIAGE	L
	CALAMAGROSTIS 'KARL FOERSTER'	FEATHER REED GRASS	1 GALLON	GREEN FOLIAGE	L
	CHONDROPETALUM TECTORUM	SMALL CAPE RUSH	1 GALLON	GREEN FOLIAGE	L
	TRICHOSTEMA LANATUM	WOOLY BLUE CURLS	5 GALLON	FRAGRANT FOLIAGE	L
	VERBENA BONARIENSIS	TALL VERBENA	1 GALLON	PURPLE FLOWERS	L
SMALL SHRUBS					
	DIANELLA LITTLE JESS™	LITTLE JESS™ DIANELLA	1 GALLON	CLUMPING HABIT	L
	LIBERTIA PEREGRINANS	ORANGE LIBERTIA	1 GALLON	BRIGHT ORANGE FOLIAGE	L
	LOMANDRA BREEZE	DWARF MAT RUSH	1 GALLON	GREEN FOLIAGE	L
	NEPETA RACEMOSA 'WALKER'S LOW'	CATMINT	1 GALLON	PURPLE FLOWERS	L
	SESLERIA AUTUMNALIS	AUTUMN MOOR	1 GALLON	GREEN-YELLOW FOLIAGE	L
GROUNDCOVERS					
	SEDUM RUPESTRE 'ANGELINA'	ANGELINA STONECROP	1 GALLON	SEASONAL COLOR CHANGE	L
	SENECIO MANDRALISCAE	BLUE CHALKSTICKS	1 GALLON	BLUE-GREEN FOLIAGE	L
BIO TREATMENT AREA PLANTING					
	JUNCUS PATENS 'ELKS BLUE'	GRAY RUSH	1 GALLON	GRAY REED	L
	LOMANDRA BREEZE	DWARF MAT RUSH	1 GALLON	GREEN FOLIAGE	L
POTTERY					
	AGAVE 'BLUE GLOW'	BLUE GLOW AGAVE	5 GALLON	BLUE-GREEN FOLIAGE	L
	ECHEVERIA DERENBERGII	PAINTED LADY	1 GALLON	RED AND YELLOW FLOWERS	L
	SENECIO MANDRALISCAE	BLUE CHALKSTICKS	1 GALLON	BLUE-GREEN FOLIAGE	L
	SESLERIA AUTUMNALIS	AUTUMN MOOR	1 GALLON	GREEN-YELLOW FOLIAGE	L

- NOTES:
- BARK MULCH: ALL PLANTER AREAS TO RECEIVE A 3" THICK LAYER OF FIR BARK MULCH.
 - BIOTREATMENT CELLS TO HAVE 3" LAYER OF NON-FLOATING MULCH.

PLANTING NOTES

CONTRACTOR SHALL PROVIDE ALL LABOR, MATERIALS, AND EQUIPMENT NECESSARY TO FURNISH AND INSTALL PLANT MATERIAL AS SHOWN ON THE DRAWINGS AND AS DESCRIBED IN THE SPECIFICATIONS.

UNLESS DESIGNATED ON THE DRAWINGS OTHERWISE, STRUCTURAL IMPROVEMENTS AND HARDSCAPE SHALL BE INSTALLED PRIOR TO PLANTING OPERATIONS.

PLANT LIST ON THE DRAWINGS SHALL BE USED AS A GUIDE ONLY. CONTRACTOR SHALL TAKEOFF AND VERIFY SIZES AND QUANTITIES BY PLAN CHECK.

A SOIL MANAGEMENT REPORT SHALL BE PROVIDED BY LANDSCAPE CONTRACTOR AND SOIL AMENDMENTS SHALL BE FOLLOWED PER THE REPORT. PHYSICAL COPIES OF THE SOIL MANAGEMENT REPORT SHALL BE PROVIDED TO THE CLIENT, PROJECT LANDSCAPE ARCHITECT AND LOCAL AGENCY AS REQUIRED. THE SOIL MANAGEMENT REPORT SHALL CONFORM TO STATE AB1881 WATER EFFICIENT LANDSCAPE ORDINANCE (WELO) OR LOCAL AGENCY ADOPTED WELO. CONTRACTOR SHALL OBTAIN A SOILS MANAGEMENT REPORT AFTER GRADING OPERATIONS AND PRIOR TO PLANT INSTALLATION.

SAMPLES OF FERTILIZERS, ORGANIC AMENDMENT, SOIL CONDITIONERS, AND SEED SHALL BE SUBMITTED PRIOR TO INCORPORATION. CONTRACTOR SHALL FURNISH TO THE OWNER'S AUTHORIZED REPRESENTATIVE A CERTIFICATE OF COMPLIANCE FOR SUCH FURNISHED MATERIALS.

ALL WORK ON THE IRRIGATION SYSTEM, INCLUDING HYDROSTATIC, COVERAGE, AND OPERATIONAL TESTS AND THE BACKFILLING AND COMPACTION OF TRENCHES SHALL BE PERFORMED PRIOR TO PLANTING OPERATIONS.

LOCATIONS OF PLANT MATERIAL SHALL BE REVIEWED ON SITE BY THE OWNER'S AUTHORIZED REPRESENTATIVE PRIOR TO INSTALLATION.

TREES SHALL BE PLANTED NO CLOSER THAN TEN FEET (10') FROM UTILITIES.

TREES PLANTED WITHIN FIVE FEET (5') OF HARDSCAPE OR STRUCTURES SHALL BE INSTALLED WITH A ROOT BARRIER AS APPROVED BY THE OWNER'S AUTHORIZED REPRESENTATIVE.

ALL PLANTING AREAS TO RECEIVE 3" THICK BARK MULCH LAYER. IN THE EVENT THAT BARK MULCH EXISTS ON SITE, CONTRACTOR SHALL PROVIDE SAMPLE OF EXISTING AND PROPOSED MATCHING BARK MULCH FOR APPROVAL. OTHERWISE, BARK MULCH SHALL BE LYNXSO SMALL FIR BARK (3/4" TO 1-1/2") OR APPROVED EQUAL.

ALL PLANT MATERIAL SHALL BE SELECTED IN ACCORDANCE WITH THE AMERICAN STANDARD FOR NURSERY STOCK (ANSI Z60.1)

FOR STANDARD FORM TREES, CALIPER SIZE SHALL BE MEASURED 6" ABOVE THE SOIL LINE FOR CALIPERS EQUAL TO OR LESS THAN 4" FOR CALIPERS GREATER THAN 4", CALIPER SHALL BE MEASURES 12" ABOVE THE SOIL LINE. FOR MULTI-TRUNK TREES THE CALIPER SHALL BE ESTABLISHED BY TAKING THE AVERAGE OF THE CALIPER OF THE TWO LARGEST TRUNKS. CALIPER IS MEASURED 6" ABOVE ORIGINATION POINT OF THE SECOND LARGEST TRUNK OR 6" ABOVE GROUND IF ALL TRUNKS ORIGINATE FROM THE SOIL.

CALIPER SIZES STANDARDS:
15 GALLON: 0.75-1.25"
24" BOX: 1.25-2"
36" BOX: 2-3.5"
48" BOX: 3.5-5"
60" BOX: 4-6"

WATER NEEDS CATEGORY BASED ON WUCOLS IV (JANUARY 2014) LANDSCAPE COEFFICIENT METHOD:

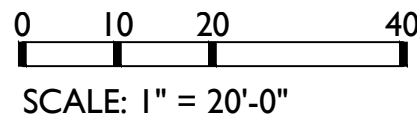
CATEGORY	PERCENTAGE OF ETo
(H) HIGH:	0.7-0.9
(M) MEDIUM:	0.4-0.6
(L) LOW:	0.1-0.3
(VL) VERY LOW:	<0.1

PLANTING LEGEND AND NOTES

SUNSWEEET MIXED USE

03.15.17

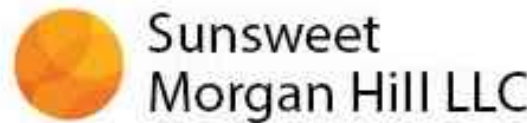
Morgan Hill, California



L5



MHengineering Co.
16075 Vineyard Blvd., Morgan Hill, CA 95037



ARCHITECTURE • PLANNING • INTERIORS

Copyright 2016 Bassenian | Lagoni Architects

RESOLUTION NO.**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF A DESIGN PERMIT FOR A PROJECT CONSISTING OF 83 MARKET RATE RENTAL UNITS AND 8051 SQUARE FEET OF COMMERCIAL SPACE. (APNS 767-13-032, 044 & 054)**

WHEREAS, such request was considered by the Planning Commission at its regular meeting of March 28, 2017, at which time the Planning Commission recommended approval of site review application, SR-17-04: Depot-Sunsweet; 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 project is consistent with the Downtown Specific Plan, Zoning Ordinance and the General Plan.
- SECTION 2.** An Environmental Impact Report (EIR) has been prepared and certified for the Downtown Specific Plan. An addendum analyzing the 83-unit Mixed-Use project was completed in January 2017, which concluded the project is consistent with the development projections analyzed in the EIR for the project site. No further environmental assessment is required. The project shall be subject to compliance with the mitigation measures of the Downtown Specific Plan EIR on file in the Community Development Department.
- SECTION 3.** Pursuant to the authority set forth under Chapter 5, Design Guidelines of the Downtown Specific Plan and adopted by Ordinance No. 1956, New Series, the Planning Commission hereby finds the project to be in substantial conformance with those Design Guidelines and recommends approval of the Design Permit for the Sunsweet project, as contained in that certain series of documents date stamped March 17, 2017, on file in the Community Development Department, entitled "Sunsweet-Mixed Use" prepared by MH Engineering, Bassenian/Lagoni, and HMH Landscape Architecture.
- SECTION 4.** 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.

**PASSED AND ADOPTED THIS 28th DAY OF MARCH 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

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

, Applicant

Date: _____

C:\Users\tlinder\AppData\Local\Temp\MinuteTraq\morganhillca@morganhillca.IQM2.com\Work\Attachments\1162.docx

Attachment: Resolution (1074 : SR 17-04: Depot-Sunsweet)

EXHIBIT "A"

STANDARD CONDITIONS

APPLICATION: SR-17-04: Depot-Sunsweet

THE FOLLOWING ARE STANDARD CONDITIONS OF APPROVAL THAT **MUST**-BE MET PRIOR TO THE ISSUANCE OF BUILDING **PERMITS** AND/OR SITE DEVELOPMENT PERMITS EXCEPT AS MAY BE SPECIFIED IN THE CONDITIONS. THE APPROVAL REQUIREMENTS INCLUDE THESE REQUIREMENTS AND ANY SPECIAL CONDITIONS THAT ARE APPLIED THROUGH THE DEVELOPMENT APPROVAL PROCESS. APPLICANTS ARE REQUIRED TO SIGN THE RESOLUTION FORM INDICATING THEY UNDERSTAND AND AGREE TO IMPLEMENT THESE STANDARD CONDITIONS AND ANY SPECIAL CONDITIONS APPLIED TO THEIR PERMIT APPROVAL.

PLANNING DIVISION

I TIME LIMITS

The Design Review approval granted under this Resolution shall remain in effect for two years to April 19, 2019. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date.

II SITE DEVELOPMENT

- A. Final selection of color and pattern for the concrete walkway shall be coordinated with the Third St. improvement project.
- B. **FINAL SITE DEVELOPMENT PLANS:** Final site development plans shall be reviewed and approved by the Community Development Department prior to issuance of a building permit. All such plans shall include:
 1. Detail depicting all concrete curbs as full formed.
 2. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing.
 3. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities.
 4. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be architecturally screened from view or located interior to the building. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow. Final method of screening shall be coordinated and detailed as part of the Third St. improvement project approval.

5. All existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.
6. On-site lighting levels and intensity (including building, parking, security and signage lighting) shall be subject to review and approval of the Planning Division, and is subject to modification after project approval should lighting negatively impact surrounding uses.

- C. DUST, NOISE, VIBRATION, AND MATERIALS MANAGEMENT PLAN: A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.

The plan must include the following “Basic Construction Mitigation Measures” per Bay Area Air Quality Management District’s guidelines:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
8. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.
9. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

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

II. BUILDING DESIGN

- A. Roof mounted mechanical equipment: All roof mounted mechanical equipment shall be placed within a screened roof top enclosure depicted on the elevation drawings or located below the parapet level and shall not be visible from the ground at any distance from the building. Cross section roof drawings shall be provided at the building permit stage indicating the relative height of the screen wall or parapet. Minimum screen height or parapet depth shall be 3-feet or greater to match the height of any proposed equipment.
- B. Lighting:
1. Lighting fixtures shall not project above the fascia or roofline of the building.
 2. Accent lighting shall be provided under the store front awnings. Final location, number and type of fixture shall be reviewed and approved by the Community Development Director prior to the issuance of a building permit.
 3. Any ground mounted lighting projecting onto the building or site will be subject to the review and approval of the Director of Community Development.
 4. Adjustment to the lighting intensity may be required after the commencement of the use.
 5. All lighting fixtures shall be coordinated with the Third St. improvement plans and approved by the Community Development Director.
 6. Lighting within the plaza area will consist of low bollard lights in addition to Sternberg lights currently installed along the Third St. frontage. Lighting within the plaza space shall be a minimum of 2 foot candles per the city requirements.
 7. Lighting at the garage entries shall be a minimum of 5 foot candles.
 8. Lighting will be provided at regular intervals along the Depot St., Fourth St., and west sides of the structure at 1-2 foot candles and along the front facade of the commercial buildings.
 9. The center area between the recessed window elements shall include a texture/pattern. The texture/pattern shall be reviewed and approved by the Community Development Director prior to the issuance of a building permit.
- C. Site Elements
1. A 3-4 space bike rack shall be provided in proximity to the commercial space. The final location and type of bike rack shall be reviewed and approved by the Community Development Director prior to the issuance of a building permit.
 2. A decorative fence and gate(s), (minimum 10-feet wide) shall be provided at the south west corner of the site between the City parking garage and ADA ramp. The gate/fence location shall be location, height and style shall be approved by the Community Development Director and Public Works Director.

3. A decorative fence shall be provided between the leasing office and the adjacent commercial building to the west. ramp The fence location, height and style shall be approved by the Community Development Director and Public Works Director.

D. Architectural elements

1. The scoring pattern shall be a minimum of one-half inch wide and one-half inch deep.
2. The wall surface finish and scoring pattern on the west elevation of the leasing office shall be coordinated with a proposal for an art feature.
3. All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior.
4. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building.
5. A detail of the roll-up door and its framing shall be reviewed and approved by the Community Development Director prior to the issuance of a building permit.
6. Detail of the trellis element over third floor residents lounge shall be reviewed and approved by the Community Development Director prior to the issuance of building permit.
7. Clear glazing shall be provided in all window areas-no tinted or mirrored glass.
8. Details of all door hardware shall be reviewed and approved by the Community Development Department prior to the issuance of a building permit.

E. Other

1. The design details and placement of the “Sunsweet Arch” and mural on the west elevation of the leasing office shall be reviewed and approved by the City’s Library, Culture and Arts Commission prior to issuance of any occupancy permit.
2. Public art shall be provided on the west elevation of the leasing office space. The final art design shall be reviewed and approved by the City’s Library, Culture and Arts Commission and be installed prior the occupancy of any of the commercial or leasing office space.
3. Detail and location of a bike rack shall be provided and approved by the Community Development Director prior to the issuance of a building permit.
4. To insure coordination with the existing Third Street improvements, field approval of the finishes, colors and material specifications or the plaza pavers and walkway shall be required prior to installation. Approval shall be granted by the Community Development Director and Public Works Director.

III LANDSCAPING

- A. Detailed final landscape plans and irrigation working drawings shall be reviewed and approved by the Community Development Director prior to the issuance of a building permit. The plans shall include the appropriate quantities, size, quality of the material, street furniture and lighting proposed to the satisfaction of the Community Development Director.
- B. Avoid over-spray from automatic irrigation systems.
- C. Any damaged plants or trees within the public right of way shall be replaced to the satisfaction of the Community Development Director and Public Works Director.
- D. Provide at least 7 feet of vertical clearance between branches and sidewalk.
- E. Additional Red Maples shall be provided with an informal spacing within the plaza frontage.
- F. Tree grates specified for the project shall match or coordinate with the grates used along Monterey Rd. and the adjacent parking garage project.
- G. Any truncated domes shall be consistent with the domes used in the City plaza and Third Street improvements.
- H. The applicant shall enter into a two-year landscape maintenance agreement effective upon acceptance of landscaping improvements and provide an appropriate bond as required by the Design Review Ordinance. Bond amount shall be equal to 100 percent of the value of the landscaping and irrigation improvements for the development project
- I. TREES AND SHRUBS MINIMUM SIZE: All trees within approved landscape plans shall be of a minimum fifteen-gallon size. All shrubs shall be minimum 5-gallon size unless otherwise approved by the Community Development Director.
- J. MAINTENANCE OF LANDSCAPING: The landscaping installed and accepted with this project shall be maintained on the site as per the approved plans. Any alteration or modification to the landscaping shall not be permitted unless otherwise approved by the Community Development Director or Design Review Board.
- K. WATER CONSERVING LANDSCAPE ORDINANCE: The landscape plans shall be in conformance with the City's Water Conserving Landscape Ordinance that was developed in accordance with California law. This Ordinance restricts landscaping turf to certain areas, specifies plant selection, requires certain types of irrigation equipment, and calls for the development of comprehensive water use calculations as an aspect of the submitted landscape plans. It is strongly suggested that the project's landscape designer refer to the City's Ordinance prior to beginning development of the project's landscape plans. (MHMC 18.73)

IV SIGNS

Prior to issuance of a certificate of occupancy for the commercial structure, a sign program covering all signs for the garage and commercial structure, shall be submitted and reviewed and approved by the Community Development Director.

V HABITAT PLAN

- A. The approved project is covered under the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.
- B. Prior to issuance of building permits or grading permits the project shall complete and submit a Habitat Plan Application Package. All fees must be paid prior to issuance building permits or grading permits.

VI OTHER CONDITIONS

- A. This Design Review approval is limited to the plan set dated March 16, 2017, on file (SR 17-0004: Depot-Sunsweet) with the Community Development Department. The approved site and building plans must be in substantial conformance with these plans as determined by the Community Development Director.
- B. **DEFENSE AND INDEMNITY:** Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this Site Review approval. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.
- C. **MITIGATION FEE ACT:** Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.

- D. Signed copies of Resolution: Submit two (2) signed copies of **Resolution 17-** to the Planning Division prior to issuance of building permits.
- E. Signed development agreement: Prior to approval of the final map (or issuance of a building permit where no map is required), the property owner shall submit to the Planning Division two (2) signed notarized copies of the Development Agreement for the proposed project.
- F. An encroachment agreement shall be completed between the property owner and the City of Morgan Hill to allow for the encroachment of the ADA ramp (south west corner) into the maintenance easement along the western portion of the site.

VII PROJECT MITIGATION MEASURES

The project shall be subject to compliance with the mitigation measures as contained in the Downtown Specific Plan EIR and as specified within the project Mitigation, Monitoring and Reporting Program as adopted under Planning Commission Resolution 16-008.

ENGINEERING LAND DEVELOPMENT

I. PROJECT SPECIFIC

- A. A one lot **Parcel Map** (lot merger) shall be submitted to certify configuration of the property boundary to eliminate all senior interior parcel lines.
- B. All existing frontage public improvements shall remain in place: curb, gutter, sidewalk and street pavement; if damage occurs through the life of the project, the improvements shall be replaced in kind, as required by the City inspectors.
- C. Project improvement plans shall include the reconfiguration of the plaza space along Third Street. All street, landscape and sidewalk alteration shall be reviewed and approved by the Director of Public Works and Director of Community Development.
- D. The only portions of the Depot Street frontage that shall be modified are at the driveway curb cuts. Trees and lighting which are eliminated by the proposed driveway shall be replaced as required by Planning and Engineering.
- E. Install curb, gutter, and sidewalk along the Fourth Street frontage as needed.
- F. Trees shall be planted along the Fourth Street frontage, coordinate with Planning and Engineering.
- G. For the trash enclosure located on Depot Street next to the north driveway approach, provide a comprehensive trash collection plan which has been coordinated and approved by the trash collection agency.
- H. Show proposed location of project's transformer and utility boxes.

- I. Encroachment permits shall be obtained for all awnings and grease interceptors placed within the sidewalk areas.
- J. New water laterals shall only be tapped on Fourth Street.
- K. All commercial units shall have separate water and fire service with the appropriate back flow devices with location to be approved by Planning and Engineering.
- L. Irrigation system shall be separately metered with the appropriate back flow device with location to be approved by Planning and Engineering.
- M. Sanitary connections shall have positive drainage to the City sanitary main; system shall not rely on private pump system. Garage shall have an emergency private pump system for sanitary spills flowing into the garage level.
- N. Sanitary lateral shall have the appropriate sanitary test manhole as required by Pre-treatment.
- O. Sanitary lateral for commercial units shall have the necessary grease traps; location shall be approved by City Engineer.
- P. New sanitary laterals shall only be made on Fourth Street.
- Q. The garage finish floor should not be lower than the City storm drain main invert; garage design with finished floor lower than City storm drain main shall be approved by the City Engineer.
- R. In case of garage flooding (storm water, domestic water), garage shall have emergency private sump pump system in place. Power of pump system shall have a backup power generator.
- S. Project shall provide proportionate flood retention for loss of pervious area; if not applicable, explain and provide calculations/drawings. Show on plans.
- T. Project retention/detention facility shall have positive drainage/outfall into the City storm drain main. If system relies on a private pump system, pump shall have an appropriate back up power generator. Show on plans.
- U. Project shall provide percolation test at the depth and location of the proposed detention facility.
- V. Plans shall include a Stormwater Control Plan (SCP) sheet to summarize stormwater quality treatment and post construction development design.
- W. Soils report shall provide provisions for construction activities adjacent to existing parking structure to the west of the projects. Construction of project shall in no way effect the existing foundations of the existing parking structure.
- X. Storm Water Runoff Management Plan (SWRMP) shall be submitted (per section IX. H) shall include:

1. All calculations and work sheets as required from the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements (per Section IX.A)
2. All elements of a Stormwater Control Plans per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements.
3. All requirements of section IX. I, J, K, L, M of these conditions.
4. Summary and applicable calculations of Section V of these conditions.

Y. Project shall pay impact fees prior to issuance of any Building Permit.

II. GENERAL

- A. 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)**
- B. The applicant shall have a Parcel 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)**
- C. The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the project 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 Parcel Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**
- D. Obtain necessary encroachment permits from the City of Morgan Hill and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**
- E. Improvement plans are to show water lines, sanitary Sewer, storm drain system, pavement widths, and existing utilities.
- F. If necessary, enter into a Improvement Agreement (IA) with the City of Morgan Hill to cover required improvements. **(MHMC 12.02.150; 17.32.010 B; 17.32.160)**
- G. **IMPACT FEE INCREASE**-The City of Morgan Hill, pursuant to City Muni-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)**

III. STREET IMPROVEMENTS

- A. 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)**

IV. SANITARY SEWER SYSTEM

- A. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on the proposed public street(s) or private street(s)/drive aisle(s). The sanitary collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye-branches and laterals, and separate sewer taps. These are to be installed by the developer. **(MHMC 13.20.355; 17.32.020 C; CMH Sewer System Master Plan; CMH Design Standards and Standard Details for Construction)**
- B. 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)**

V. STORM DRAIN SYSTEM

- A. 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)**
- B. 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)**
- C. 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** storm water runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre-development flows. **(MHMC 17.32.020 B; 18.74.440; CMH Design Standards and Standard Details for Construction; CMH Storm Drainage System Master Plan)**
- D. 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.
 1. Storm drain calculations to determine detention/retention facility sizing and operations.

2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.

(CMH Design Standards and Standard Details for Construction)

- E. As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: <http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp> and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at <https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx> and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number 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)**.
- F. NPDES GENERAL PERMIT SITE SWPPP INSPECTIONS AND COMPLIANCE:
 1. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP or RCE)**.
 2. SWPPP Inspections shall occur weekly during the rainy season (September 15th thru May 1st).
 3. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
 4. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.
 5. Per each of the inspection conditions 2, 3, or 4, 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.
 6. Prior to rain events, BMPs not in compliance will need to be corrected immediately.
 7. Illicit discharges per the NPDES General Permit, non-compliance of tracking control, and inlet protection within the public right of way shall be address immediately.

8. Other non-compliance issues need to be addressed within a 24 hour period.
9. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow up inspection.

VI. WATER SYSTEM

A. Water metering:

1. All residential units shall have separate water meters or be privately sub metered as approved by City Engineer per section 13.04.130.C of the municipal code as follows:
The owner of a multiunit residential development that includes habitable dwellings, may, upon compliance with the following, install separate submeters to each residential unit in lieu of installing separate meters directly to the municipal water system.
 - a. The owner must obtain a permit from the Public Works Department for the submeter system.
 - i Any submeters shall accurately and completely measure all water consumed from the municipal water system.
 - ii The owner shall agree to charge the tenant of each unit a water utility charge strictly based on the consumption by the occupants of the unit.
 - iii Installation, maintenance and monitoring of the submeter system shall be the responsibility of the owner, and in no circumstances, shall the city be responsible therefore.
 - iv If any water conservation plan is implemented or imposed by the city, the owner shall be responsible for complying with any reductions required by such plan as measured by consumption on the meter(s) directly connected to the municipal water system.
2. Failure to abide by the above conditions, and/or any other conditions the city may impose, may result in revocation of any permit issued and/or other action as authorized by law, such as at the owner's expense install individual public water meters for each unit.
3. Owner/developer shall provide an agreement with the City to cover/outline the requirements of section 13.04.130.C of the municipal code to be reviewed and approved by the City Engineer and City Attorney.
4. Records of bookkeeping and private sub-metering usage shall be accurately maintained digitally. Upon request from the City, records shall be produce to the city within a 24-hour period.

VII. FEMA CONDITIONS

- A. Project has filed a FEMA Letter of Map Revision based on fill (LOMR-F). Existing grades around the perimeter of the property cannot be lower than the published base flood elevation (BFE) during construction activities. Residential or commercial lowest finished floors shall be elevated 1 foot above the FEMA base flood elevation (BFE).
- B. Parking entrances finished grades shall be 0.1 feet clear of the published BFE.

VIII. OTHER CONDITIONS

- A. The owner shall dedicate all necessary utility easements. **(MHMC 12.02.080 D; 17.28.010 A)**
- B. 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)**
- C. The parcel 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)**
- D. 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 property owner.
- E. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**
- F. 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:
 - 1. Civil Engineer of record.
 - 2. Geotechnical Engineer of record.
 - 3. Third Party QSD/QSP SWPPP Inspector.
 - 4. General Contractor.
 - 5. Sub Contractors.

IX. NPDES WATER QUALITY STORMWATER MANAGEMENT DEVELOPMENT STANDARDS FOR ALL PROJECTS

- A. 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. Project shall provide Stormwater Control Plan Checklist and applicable calculations per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements. Project shall meet the applicable requirements of the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements:

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

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

1. [California Stormwater Quality Association \(CASQA\) Handbook: BMPs for New Development and Redevelopment](#)
2. [Bay Area Stormwater Management Agencies Association \(BASMAA\) Design Guidance Manual for Stormwater Quality Protection: Start at the Source 1999](#)
3. [California Storm Water Best Management Practices Handbooks](#)
4. [Caltrans Storm Water Quality Handbook: Planning and Design Staff Guide](#)

- 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. Properly Design Outdoor Material Storage Areas** - Outdoor material storage areas refer to storage areas or storage facilities solely for the storage of materials. Improper storage of materials outdoors may provide an opportunity for toxic compounds, oil and grease, heavy metals, nutrients, suspended solids, and other pollutants to enter the storm water conveyance system. Where proposed project plans include outdoor areas for storage of materials that may contribute pollutants to the storm water conveyance system, the following Structural or Treatment BMPs are required:
1. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as, but not limited to, a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes, or curbs.
 2. The storage area must be paved and sufficiently impervious to contain leaks and spills.
 3. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.
- F. Properly Design Trash Enclosure Areas** - All trash enclosure areas must meet the following Structural or Treatment Control BMP requirements (individual single family residences are exempt from these requirements):
1. Roof Required: Trash enclosure areas shall have an all-weather noncombustible solid roof to prevent rainwater from mixing with the enclosure’s contents
 - a. Walls Required: Trash enclosure shall have structural walls to prevent unauthorized off-site transport of trash.
 - b. Doors: Trash enclosure shall have door(s) which can be secured when closed.
 - c. Grades: The pad for the enclosure shall be designed to not drain outward, and the grade surrounding the enclosure shall be designed to not drain into the enclosure.
 - d. Drain Inlet: Within the enclosure, an area drain with an approved (Zurn) vandal proof drain shall be installed and shall be plumbed to the sanitary sewer system with grease trap. Grease trap shall be located within the trash enclosure footprint.

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

1. Volumetric Treatment Control BMP

- a. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or
- b. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or
- c. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for “treatment” that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.

2. Flow Based Treatment Control BMP

- a. The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area; or
- b. The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.

H. 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.

1. The stormwater runoff management plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved stormwater runoff management plan.
2. The 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.
3. 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.

4. 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.

I. Stormwater BMP operation, maintenance, and replacement responsibility

1. 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.
2. Any repairs or restoration/replacement and maintenance shall be in accordance with city-approved plans.
3. 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.

J. 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.

1. 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).
2. 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.
3. 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.

K. Stormwater BMP inspection responsibility

1. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a **Register Civil Engineer (RCE)**.

2. 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:
 - a. Site address;
 - b. Date and time of inspection;
 - c. Name of the person conducting the inspection;
 - d. List of stormwater facilities inspected;
 - e. Condition of each stormwater facility inspected;
 - f. Description of any needed maintenance or repairs; and
 - g. As applicable, the need for site re-inspection.
 3. Upon completion of each inspection, an inspection report shall be submitted to Public Works Engineering.
- L. **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.
- M. **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.

BUILDING DIVISION

I. EXISTING STRUCTURES

- A. Removal of any existing sewage disposal facilities and connection to city services shall be required prior to final inspection. **(MHMC 13.24)**

II. GRADING

- A. Prior to issuance of a building permit, the applicant shall provide contract documents for on-site improvements including comprehensive site grading and a drainage plan. The plan shall provide for exportation of excess soil material as necessary. **(CBC Appendix chapter 33)**
- B. Prior to issuance of building permits, the applicant shall provide contract documents for on-site improvements including:
 1. Comprehensive site grading and drainage plan. Said plan shall provide for exportation of excess soil material as necessary and controlled drainage of storm water away from building.
 2. Comprehensive erosion control plan, including hydro-mulching or hand-seeding methods to be used in all graded or cleared areas.

III. SITE DEVELOPMENT

- A. Prior to issuance of building permits, the applicant shall provide two copies of a soils (Geotechnical) engineering report prepared by a registered Civil (Geotechnical) Engineer. The report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading criteria for corrective measures, and opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes. The report shall also include a soil classification and foundation investigation. **(CBC Appendix chapter 33)**
- B. Prior to issuance of building permits, the applicant shall provide two copies of an engineering geology report, prepared by a registered Engineer Geologist. The report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors. **(CBC Appendix chapter 33)**
- C. Record of survey required. Lot stakes to be set by registered Civil Engineer or licensed Land Surveyor prior to issuance of building permits. **(CBC 108.1)**

IV. OTHER CONDITIONS

- A. The applicant shall have an acoustical analysis prepared by a licensed professional, specifying the manner in which interior noise levels will be reduced to the required forty-five (45) dba. The details of noise attenuation recommended in the report will be subject to review and approval of the Chief Building Official prior to issuance of the building permit. **(CBC Appendix chapter 1208)**
- B. Submit minimum six (6) complete sets of working drawings and specifications. Building plans shall be drawn at a minimum 1/4" scale. Minimum sheet size shall be 18" x 24". Submit minimum six (6) complete sets of drawings for all commercial and or industrial buildings. **(CBC 106.3.3)**
- C. A demolition permit from the Building Division is required prior to the demolition of any structure. All structures which are 50 years old or older must complete a 15-day posting requirement. All structures must obtain a permit from the Bay Area Air Quality Control Board prior to demolition. **(MHMC 15.60)**
- D. Permits for new structures or additions will require compliance with the Building Security Ordinance. Requirements such as the installation of dead bolts on doors, protection methods for windows, garage door security, commercial roof opening security, lighting at all exit doors, etc. may be required. **(MHMC 15.40)**
- E. Permits for new structures or additions to existing structures may require the installation of fire sprinklers. **(MHMC 15.08.070)**
- F. All copper tube for water piping shall have a weight of not less than type "L". **(MHMC 15.20.050)**

FIRE DEPARTMENT

- A. **Preliminary Review Only:** The requirements and conditions stated in this review are preliminary and are intended to be used for the purposes of project planning. An official Fire Department review of the project will be conducted upon receipt of a complete plan submittal application that clearly shows all intended grading, demolition, construction or building modifications.
- B. **Proposal limited to:** Review of this Development proposal is limited to acceptability of site access as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
- C. **Automatic Fire Sprinkler System Required.** Buildings requiring automatic fire sprinkler system shall be equipped throughout with an approved automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA) Standard #13. **(CFC Chapter 9 as amended by MHMC 15.44.170)**
- D. **Fire Apparatus (Engine) Access Roads Required,** Prior to the commencement of combustible construction, an access roadway with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet, 6 inches shall be provided, with minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%, unless otherwise approved in writing by the Fire Marshal. Installations shall conform to the City of Morgan Hill Standard Details and Specifications 11-B. **(CFC section 503 as amended by MHMC 15.44.140)**
- E. **Public Fire Hydrant(s) required:** Provide public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the City of Morgan Hill Public Works Department. Maximum hydrant spacing shall be 500 feet and the minimum single flow hydrant shall be 1000 GPM at 20 psi residual pressure. If fire hydrants are already in place, include civil drawings showing location of all hydrants with the building permit submittal. **(CFC 507)**
- F. **Fire Hydrant Location Identifier,** Prior to project final inspection, the general contractor shall ensure that an approved (“Blue Dot”) fire hydrant location identifier has been placed in the roadway, as directed by the fire department.
- G. **Premises Identification:** Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background and be a minimum of four inches in height. **(CFC section 505)**
- H. **Timing of Required Roadway Installations,** Prior to the commencement of combustible construction, the required roadway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the City of Morgan Hill unless otherwise approved in

writing by the Fire Marshal. Bulk combustible construction materials shall not be delivered to the construction site until installations are completed as stated above. During construction, emergency access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed. **(CFC Chapter 14 as amended by MHMC 15.44.180)**

- I. **Timing of Required Water Supply Installations.** Prior to the commencement of combustible construction, the required Fire Hydrant and Water Supply installations shall be in place, inspected, tested, and accepted by the Fire Department and the City of Morgan Hill, unless otherwise approved in writing by the Fire Marshal. Bulk construction materials may not be delivered to the construction site until installations are completed as stated above. Clearance for building permits may be held until installations are completed. **(CFC Chapter 14 as amended by MHMC 15.44.180)**
- J. **Fire Lane Marking Required.** Provide marking for all roadways within the project. Markings shall be per fire department specifications. Installations shall also conform to Local Government Standards and the City of Morgan Hill Standard Details and Specifications 11-F. **(CFC section 503)**
- K. **Fire Ladder Truck Set Up Area(s).** Provide Fire Department Ladder Truck Set up Areas with a minimum unobstructed width of 30 feet and minimum length of 60 feet. Area shall support 72,000 pounds of gross vehicle weight. Area shall be paved or other engineered surfaces may be used with Fire Department approval. **(CFC section 503 as amended by MHMC 15.44.140)**
Loading areas that meet the above dimensions are OK for Ladder Truck setup. Access is required on 3rd, 4th and Depot Streets.
- L. **AERIAL FIRE APPARATUS ACCESS ROADS**
 1. **Where required:** Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.
 2. **Width:** Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.
 3. **Proximity to building:** At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572) and a maximum of 30 feet (9144mm) from the building, and shall be positioned parallel to one entire side of the building, as approved by the fire code official.
- M. **Parking Along Roadways.** The required width of fire access roadways shall not be obstructed in any manner. Parking shall not be allowed along roadways less than 28 feet in width. Parking will be allowed along one side of the street for roadways 28-35 feet in width.

For road ways equal to or greater than 36 feet, parking will be allowed on both sides of the roadway. Roadway widths shall be measured face to face of curb. Parking spaces are based on an 8-foot wide space. **(CFC section 503)**

- N. Review of these plans does not release the developer, architect, or contractor of the responsibility for the corrections of mistakes, errors or omissions contained therein.

POLICE DEPARTMENT

I. SITE DEVELOPMENT

- A. The applicant shall comply with applicable provisions of the City's building security ordinance. Exterior lighting shall comply with criteria specified in the Design Review Ordinance. **(MHMC 18.74.370)**
- B. The common main entrance door to a multi-family residential building shall be coupled with a voice intercom and electric door controls for each living unit to monitor control of visitor access to the building's interior. There shall be no master keying of residential units.
- C. On directories used in a multiple family dwelling, the residents listed shall be by alphabetical listing only and shall not correspond to numbering of dwelling unit. **(MHMC 15.40.410)**
- D. Where electronic security gates are provided to a development, a voice intercom or phone and electric gate control shall be provided. Gate location shall be designed to provide adequate area for turn-around of vehicles. Applicant will establish gate code in cooperation with and the approval of the Morgan Hill Police Department.

II. BUILDING DESIGN

- A. Commercial space shall have all exterior transoms, glass skylights, and other openings of glass which are accessible from any surface on the premises shall be constructed of burglary- resistant glass or equally resistant glasslike material or secured on the inside with the following protective devices:
 - 1. Iron bars of at least one-half ($\frac{1}{2}$) inch round or one (1) inch x one-quarter ($\frac{1}{4}$) inch flat steel material no more than five (5) inches apart and securely fastened; or
 - 2. Iron or steel grills of at least one-eighth ($\frac{1}{8}$) inch thickness with mesh not to exceed two (2) inches secured with non-removable type screws. **(MHMC 15.40.250)**
- B. All commercial space hatchway openings shall be secured with the following protective devices:
 - 1. If the hatchway is of wooden material, it shall be covered on the inside with at least sixteen (16) gauge sheet steel, or its equivalent, attached with screws.

2. The hatchway shall be secured from the outside with a slide bar or slide bolt with a minimum of one (1) inch throw. The use of a crossbar or padlock must be approved by the Fire Department.
 3. Outside hinges on all hatchway openings shall be provided with non-removable pins using pin-type hinges. **(MHMC 15.40.280)**
- C. All air duct or air vent openings exceeding eight (8) inches x twelve (12) inches on the roof or exterior walls of any building shall be secured by covering the same with either of the following:
1. Iron bars of at least one-half ($\frac{1}{2}$) inch round or one (1) inch x one-quarter ($\frac{1}{4}$) inch flat steel material, spaced no more than five (5) inches apart and securely fastened; or
 2. Iron or steel grills of at least one-eighth ($\frac{1}{8}$) inch thickness with mesh not to exceed two (2) inches and secured with non-removable type screws.
 3. If the barrier is on the outside, it shall be secured with galvanized round-head through bolts of at least three-eighths ($\frac{3}{8}$) inch diameter on the outside. **(MHMC 15.40.290)**

OFFICE OF JOINT POWERS PRETREATMENT

COMMERCIAL AND INDUSTRIAL BUILDINGS

- A. Restaurants and food preparation facilities shall install grease interceptors. The type, size and location of said interceptors shall be to the approval of the Public Works Director and the Pretreatment Office.
- B. Installation of a sewer test manhole in lieu of a property line clean-out, shall be provided for each building, in accordance with standard city specifications. **(MHMC 13.20.270)**



3RD STREET ELEVATION

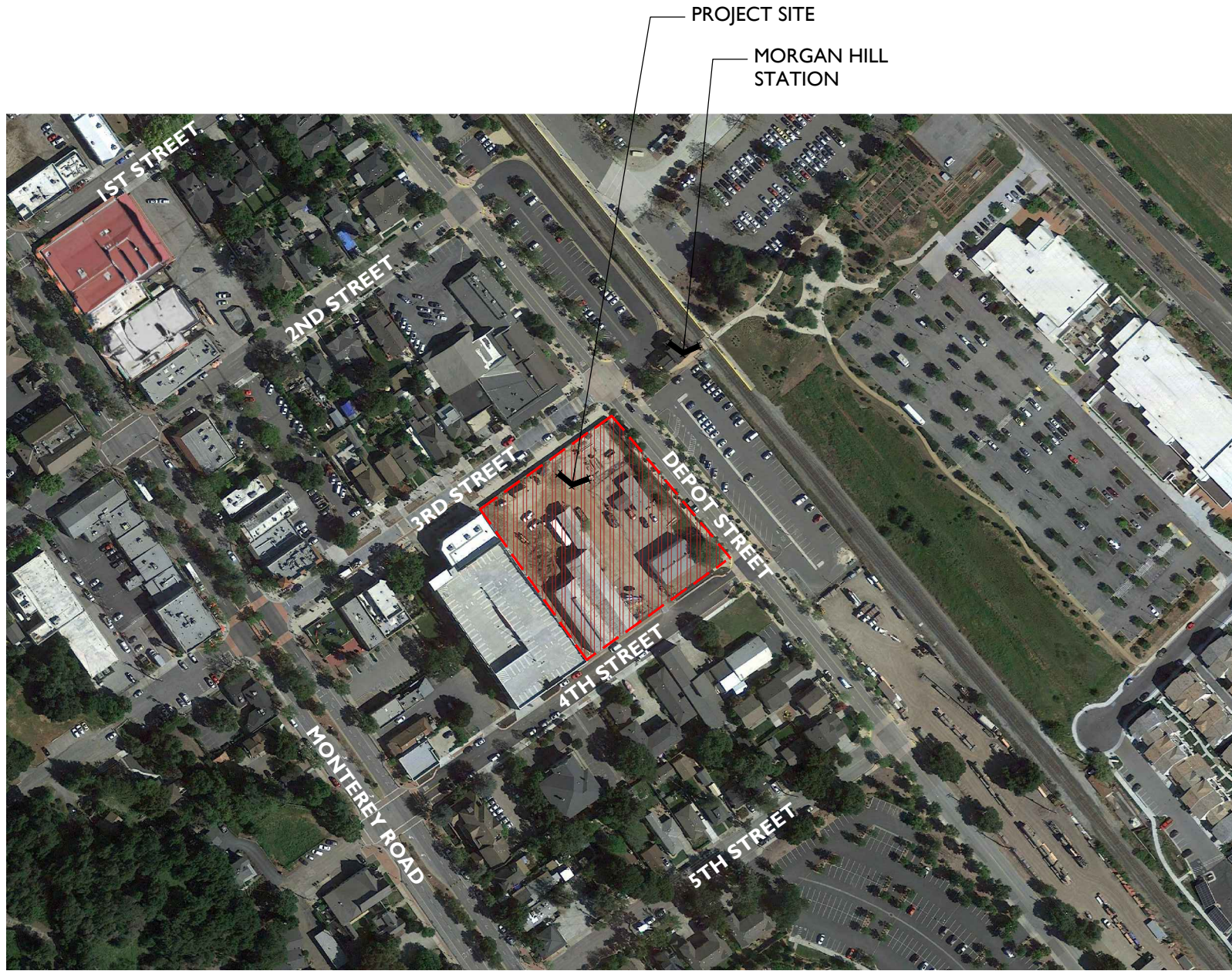
VICINITY MAP

PROJECT DESCRIPTION

PROJECT DATA & ZONING SUMMARY

GENERAL INFORMATION

SHEET INDEX



THE SUNSWEET MIXED-USE APARTMENTS PROJECT INCLUDES 83 APARTMENT UNITS AND APPROXIMATELY 6,000 SQUARE FEET OF GROUND FLOOR RETAIL/ COMMERCIAL USES. THE OVERALL BUILDING AREA OF THIS APARTMENT IS APPROXIMATELY 130,000 SQUARE-FOOT. THE SITE IS SURROUNDED BY THREE MAJOR DOWNTOWN COMMERCIAL STREETS AND THE NEW CITY-OWNED 273 STALL PARKING STRUCTURE. THE BUILDING WILL OFFER A UNIQUE AND UNMATCHED SET OF AMENITIES THAT WILL BE ATTRACTIVE TO THE DEMOGRAPHIC GROUPS THAT ARE LIKELY TO BE THE RESIDENTS (YOUNG PROFESSIONALS, SINGLE ADULTS, SENIORS, AND SMALL FAMILIES). THE CURRENT COMMON SPACE PROGRAM INCLUDES A POOL, FITNESS ROOM, CLUB HOUSE, PET AMENITIES, GARDEN, AND ROOFTOP LOUNGE(S). THIS PROJECT FEATURES FOUR STORIES ABOVE PARKING LEVEL WITH THE MAXIMUM BUILDING HEIGHT OF 58 FOOT. 119 STALLS OF RESIDENTIAL PARKING, 5 LEASING OFFICE PARKING AND 5 GUEST PARKING WILL BE LOCATED WITHIN THE BUILDING HALF A LEVEL BELOW SURFACE AND WILL INCLUDE AT LEAST ONE ASSIGNED SPACE PER RESIDENTIAL UNIT. GIVEN THE LOCATION IS WITHIN ONE MINUTE WALK TO THE MORGAN HILL CALTRAIN COMMUTER STATION AND THE BRAND NEW CITY-OWNED 273-STALL PARKING STRUCTURE ON THE ADJACENT SITE, THE PROJECT'S PARKING REQUIREMENT IS FLEXIBLE AND DOES NOT INCLUDE A MANDATE TO PROVIDE GUEST PARKING WITHIN THE BUILDING.

PLANNING & ZONING SUMMARY GENERAL PROJECT DATA			
ZONING DOCUMENTS		CBD MIXED USE (GENERAL PLAN) CBD (ZONING ORDINANCE) MORGAN HILL DOWNTOWN SPECIFIC PLAN	
FLOOR & LOT AREA CALCULATIONS			
LOT AREA	71,702 SQ. FT.		
BUILDING AREA (INCLUDED COVERED OUTDOOR AREA)	130,175 SQ. FT.		
FLOOR AREA RATIO (INCLUDED COVERED OUTDOOR AREA)	1.82		
BUILDING AREA (INTERIOR ONLY)	121,224 SQ. FT.		
FLOOR AREA RATIO (INTERIOR ONLY)	1.69		
LOT COVERAGE AREA	40,893 SQ. FT.		
LOT COVERAGE	57.03%		
TOTAL LIVABLE AREA	81,317 SQ. FT.		
TOTAL COMMERCIAL AREA	8,051 SQ. FT.		
SETBACK TABLE			
3RD STREET	0'-0"		
DEPOT STREET	MINIMUM 10'-0"		
4TH STREET	MINIMUM 10'-0"		
BUILDING MAXIMUM HEIGHT	60'-0"		
VEHICULAR PARKING		129	
	REGULAR PARKING		125
	ACCESSIBLE PARKING		4
BIKE PARKING			
	0		
RESIDENTIAL BUILDING:			
	OCCUPANCY - R-2 / A-3		
	CONSTRUCTION TYPE - TYPE VA		
PARKING STRUCTURE:			
	OCCUPANCY S-2		
	CONSTRUCTION TYPE - TYPE 1A		

OWNER:
SUNSWEET MORGAN HILL LLC
84 WEST SANTA CLARA STREET, SUITE 600
SAN JOSE, CA 95113
LAND ACQUISITION DIRECTOR: KONSTANTIN VORONIN
CONTACT: (408) 292-1601
EMAIL: KVORONIN@REPUBLIC-URBAN.COM

ARCHITECT:
BASSENIAN LAGONI ARCHITECTS
2031 ORCHARD DRIVE
NEWPORT BEACH, CA 92660
PRINCIPAL: CINDY TEALE
CONTACT: (949) 553-9100
EMAIL: CTEALE@BASSENIANLAGONI.COM

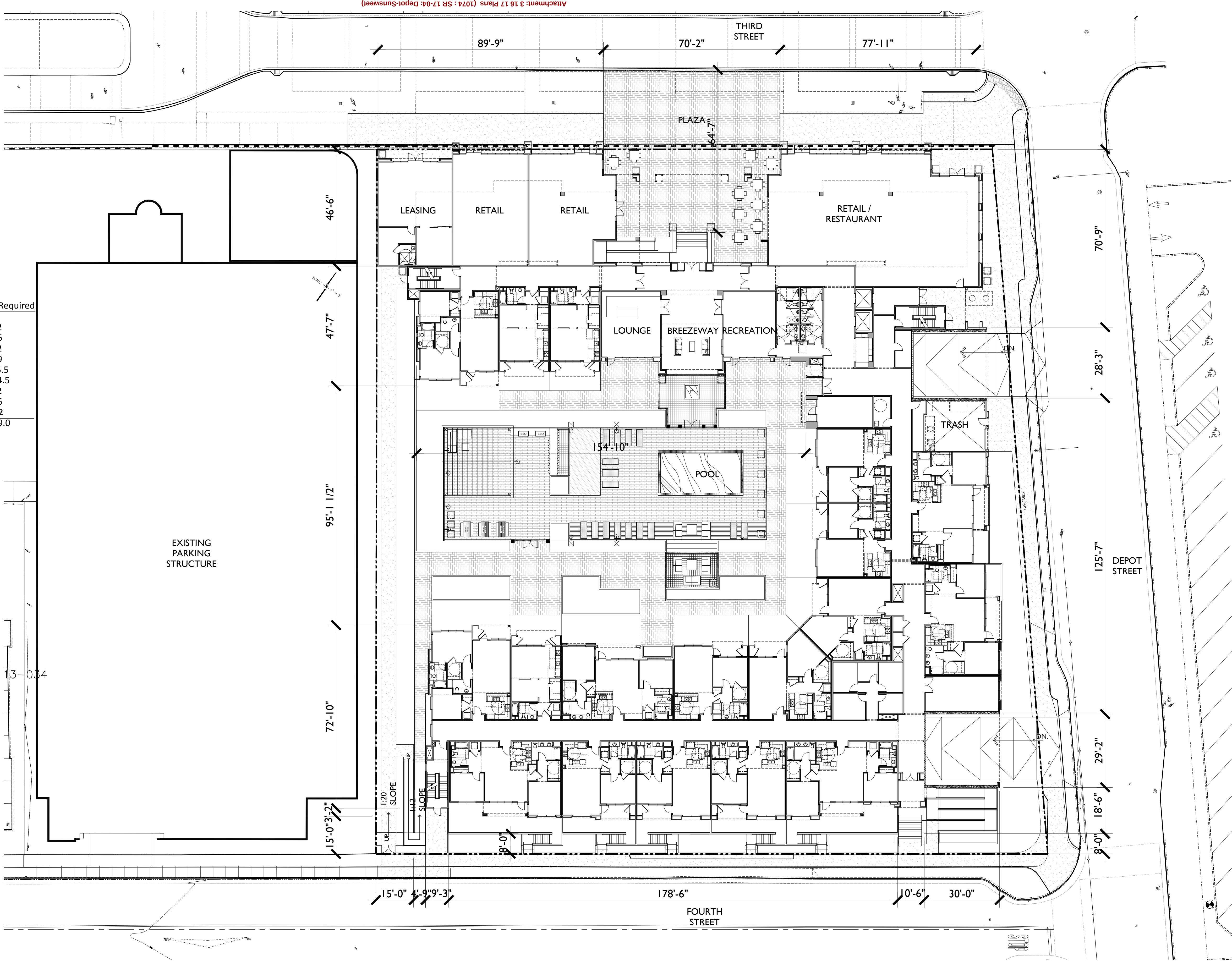
CIVIL ENGINEER:
MH ENGINEERING COMPANY
16075 VINEYARD BLVD.
MORGAN HILLS, CA 95037
PRESIDENT: BILL MCCLINTOCK
CONTACT: (408) 779-7381
EMAIL: billm@mhengineering.com

LANDSCAPE ARCHITECT:
HMH LANDSCAPE ARCHITECTURE
1570 OAKLAND ROAD
SAN JOSE, CA 95131
LANDSCAPE ARCHITECTURE MANAGER: BRIAN GLICK
CONTACT: (408) 487-2200
EMAIL: bglick@hnhca.com

SHEET	SHEET NAME
A0.0	COVER SHEET
A1.1	ARCHITECTURAL SITE PLAN
A2.1	BASEMENT PLAN
A2.2	FIRST FLOOR PLAN
A2.3	SECOND FLOOR PLAN
A2.4	THIRD FLOOR PLAN
A2.5	FOURTH LEVEL PLAN
A2.6	LOFT LEVEL PLAN
A2.7	ROOF PLAN
A3.1	ILLUSTRATIVE BUILDING ELEVATION
A3.2	ILLUSTRATIVE BUILDING ELEVATION
A3.3	ILLUSTRATIVE BUILDING ELEVATION
A3.4	ILLUSTRATIVE BUILDING ELEVATION
A4.1	BUILDING SECTIONS A-B
A4.2	BUILDING SECTIONS C-D
A4.3	BUILDING SECTIONS E
A5.1	BUILDING MATERIALS & PRECEDENT IMAGES
A5.2	DEVIATION BASEMENT PLAN
A5.3	DEVIATION FIRST FLOOR PLAN
A5.4	DEVIATION LOFT LEVEL PLAN
A5.5	DEVIATION PARKING PLAN
C1.1	CONCEPTUAL GRADING AND DRAINAGE PLAN
C1.2	GRADING CROSS SECTIONS
C1.3	STORMWATER CONTROL PLAN
C1.4	UTILITY PLAN
L1	PODIUM AND PERIMETER LANDSCAPE CONCEPT
L2	ROOF DECK LANDSCAPE CONCEPT
L3	PLANTING LEGEND AND NOTES
L4	PLANTING DETAILS
L5	PODIUM AND PERIMETER HYDROZONE
L6	ROOF DECK HYDROZONE
L7	IRRIGATION DETAILS
L8	SITE AMENITY CONCEPT IMAGES
L9	SITE AMENITY CONCEPT IMAGES
L10	PODIUM AND PERIMETER ILLUSTRATIVE PLAN
L11	ROOF DECK ILLUSTRATIVE PLAN
L12	LANDSCAPE CONCEPT IMAGERY
L13	SITE VERNACULAR
L14	CONCEPT IMAGERY
L15	CONCEPT IMAGERY
L16	CONCEPT IMAGERY
L17	CONCEPT IMAGERY

SUBMITTAL DATE: 03-16-2017

	Area (S.F.)	Ground	2nd	3rd	4th	Total	%	Parking	Parking Required
Studio	593	3	4	4	1	12	14%	1 PER UNIT	12
1 Bedroom (Unit 1A)	812	6	6	9	3	24	29%	1.5 PER UNIT	36
1 Bedroom (Unit 1B)	927	2	2	2	2	8	10%	1.5 PER UNIT	12
1 Bedroom + Den	1088	2	2	2		6	7%	1.5 PER UNIT	9
2 Bedroom (Unit 2A)	1152	5	6	6		17	20%	1.5 PER UNIT	25.5
2 Bedroom (Unit 2B)	1248		1	1	1	3	4%	1.5 PER UNIT	4.5
2 Bedroom + Loft (Unit 2C)	1342				8	8	10%	1.5 PER UNIT	12
2 Bedroom (Unit 2D)	1331		4			4	5%	1.5 PER UNIT	6
3 Bedroom (Unit 3A)	1670				1	1	1%	2 PER UNIT	2
Total		18	25	24	16	83	100%		119.0
Parking Required:									
Residential	119 Spaces								
Leasing	5 Spaces								
Total Required:	124 Spaces								
Parking Provided :	129 Spaces								
Regular Parking	125								
Accessible Parking	4								
Total Apartment Homes:	83								
PROPERTY INFO:	71,702 SQ. FT.								
LOT SIZE:									
FIRST FLOOR:									
RETAIL	6,801 SQ. FT.								
LEASING	1,250 SQ. FT.								
TOTAL :	8,051 SQ. FT.								
RESIDENTIAL	16,425 SQ. FT.								
LOUNGE	1,232 SQ. FT.								
HALL/STAIR/MEP/TRASH/JAN.	7,064 SQ. FT.								
STORAGE	478 SQ. FT.								
PET SPA	299 SQ. FT.								
BIKE STORAGE/ REPAIR	455 SQ. FT.								
TOTAL CONDITIONED SPACE	34,004 SQ. FT.								
SECOND FLOOR:									
RESIDENTIAL	24,675 SQ. FT.								
FITNESS	2,155 SQ. FT.								
GAME ROOM	356 SQ. FT.								
HALL/STAIR/MEP/TRASH	6,360 SQ. FT.								
STORAGE	467 SQ. FT.								
TOTAL CONDITIONED SPACE	34,013 SQ. FT.								
THIRD FLOOR:									
RESIDENTIAL	21,759 SQ. FT.								
UPPER LOUNGE	506 SQ. FT.								
HALL/STAIR/MEP/TRASH	6,563 SQ. FT.								
STORAGE	570 SQ. FT.								
TOTAL CONDITIONED SPACE	29,338 SQ. FT.								
FOURTH FLOOR:									
RESIDENTIAL	18,458 SQ. FT.								
HALL/STAIR/MEP/TRASH	4,781 SQ. FT.								
STORAGE	570 SQ. FT.								
TOTAL CONDITIONED SPACE	23,809 SQ. FT.								
BASEMENT:									
PARKING	45,860 SQ. FT.								
STAIR/ MEP	2,837 SQ. FT.								
TOTAL CONDITIONED SPACE	48,639 SQ. FT.								



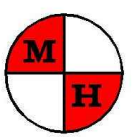
ARCHITECTURAL SITE PLAN

SUNSWEEP MIXED USE

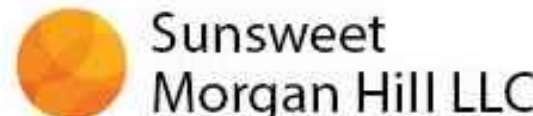
Morgan Hill, California

A.I.I

03.16.17

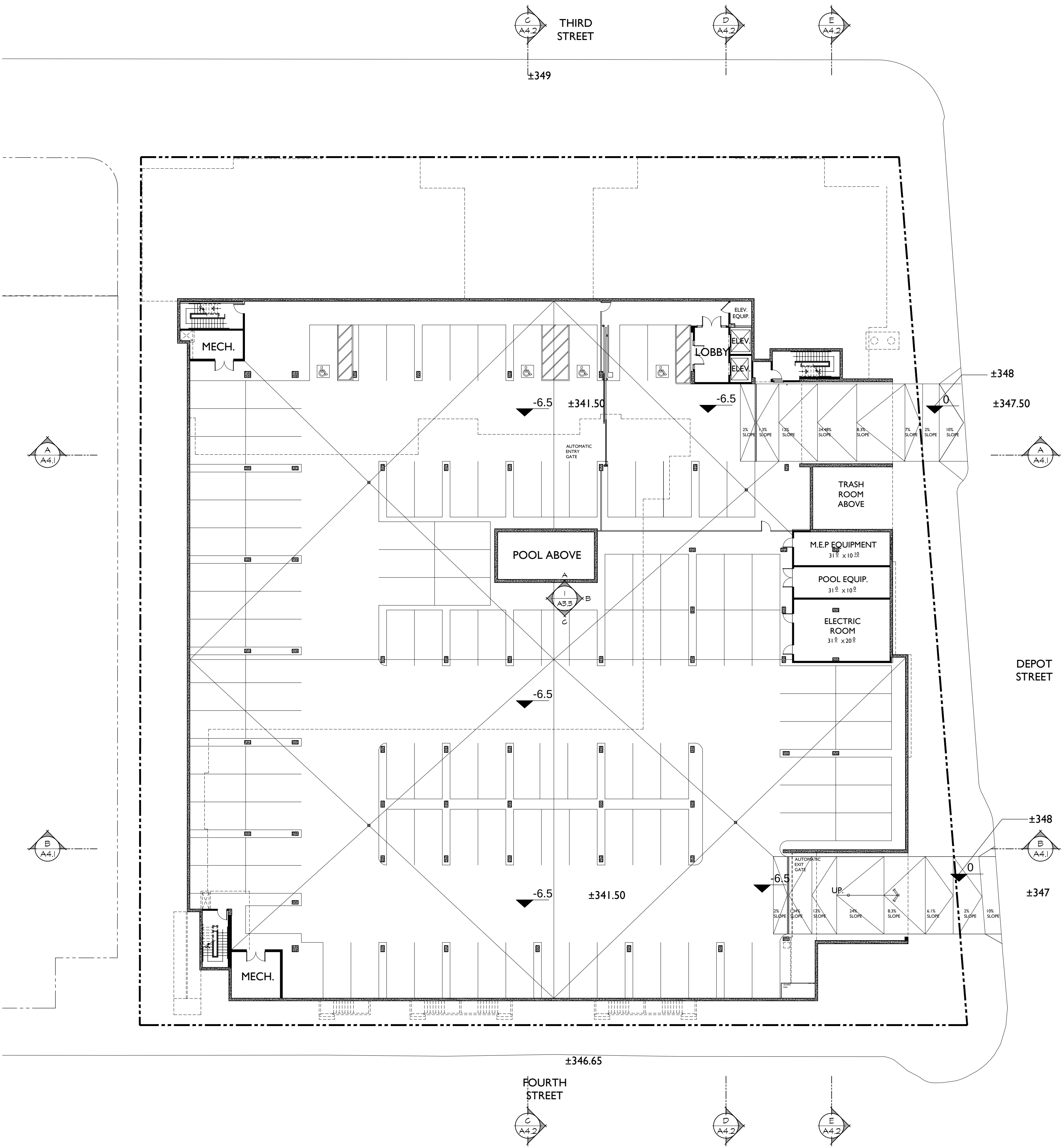


MH engineering Co.
16075 Vineyard Blvd., Morgan Hill, CA 95037



Bassenian | Lagoni
ARCHITECTURE • PLANNING • INTERIORS

Copyright 2017 Bassenian | Lagoni Architects

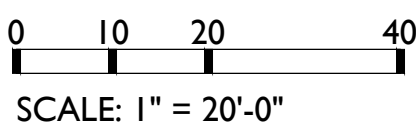


CONCEPTUAL FLOOR PLAN

BASEMENT / GARAGE
129 STALLS W/ 9 X 18 PARKING
(64 TANDEM PARKING STALLS)

SUNSWEEET MIXED USE

Morgan Hill, California



A 2.1



RETAIL	6,801 SQ. FT.
LEASING	1,250 SQ. FT.
TOTAL :	8,051 SQ. FT.

GROUND FLOOR

CONCEPTUAL FLOOR PLAN

SUNSWEEET MIXED USE

Morgan Hill, California

0 10 20 40
SCALE: 1" = 20'-0"
A 2.2

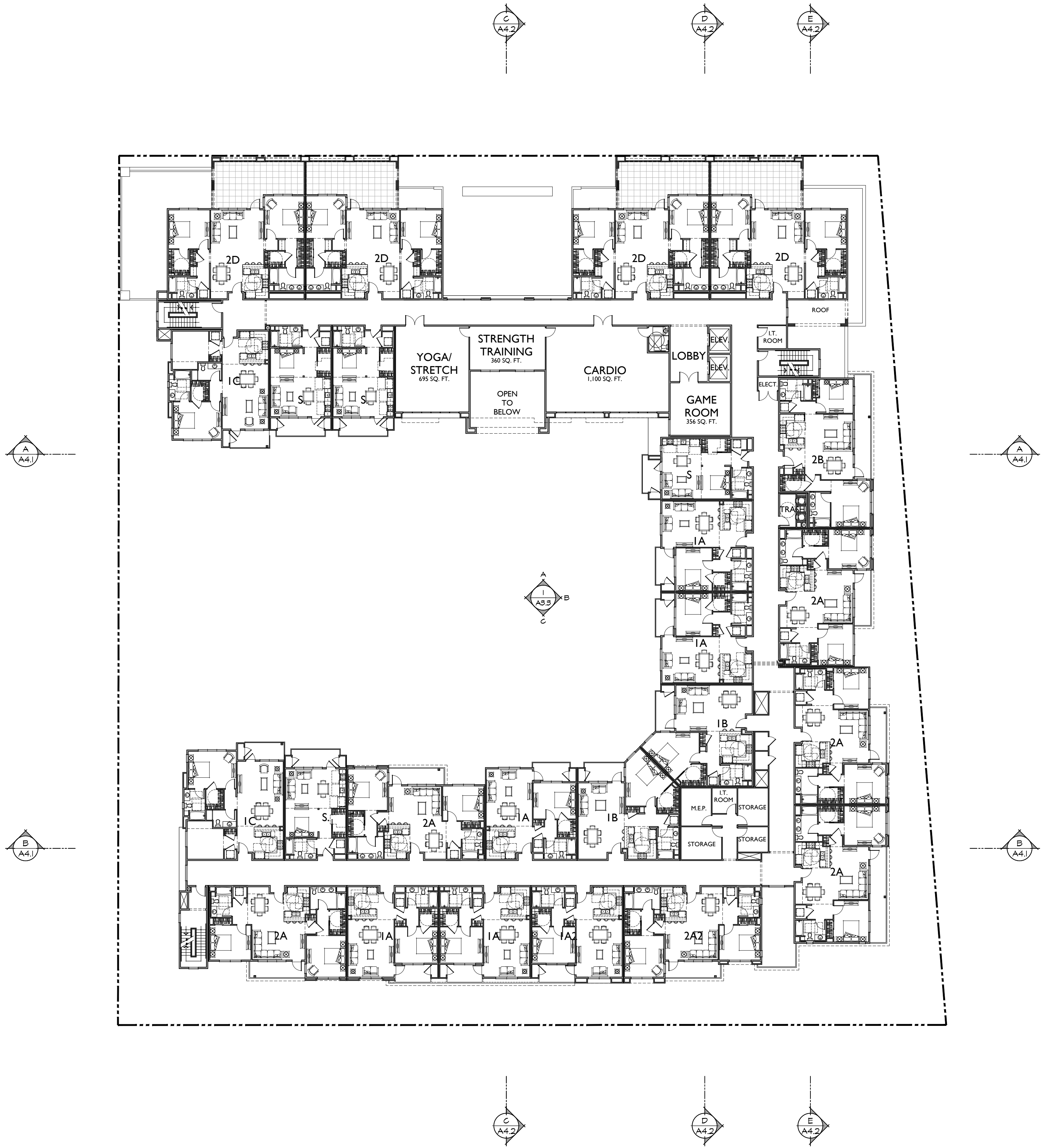
03.16.17

MH engineering Co.
16075 Vineyard Blvd., Morgan Hill, CA 95037

HMM
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

Bassenian | Lagoni
ARCHITECTURE • PLANNING • INTERIORS
Copyright 2017 Bassenian | Lagoni Architects

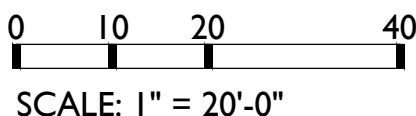


SECOND FLOOR

CONCEPTUAL FLOOR PLAN

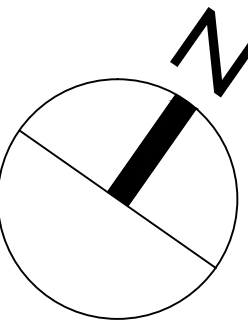
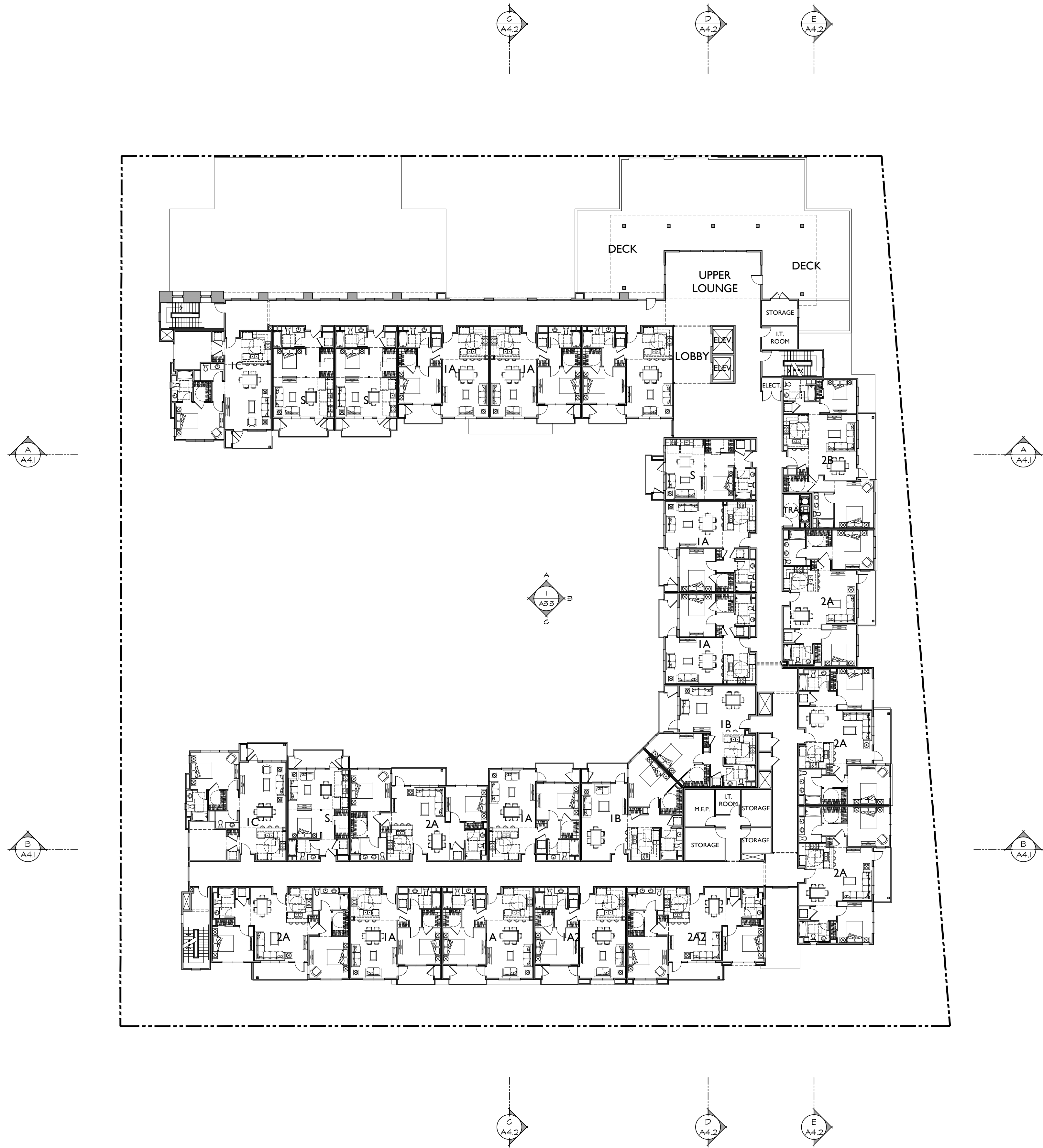
SUNSWEEET MIXED USE

Morgan Hill, California



A 2.3

SCALE: 1" = 20'-0"

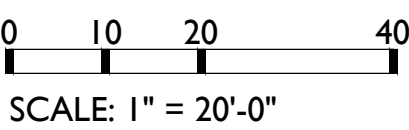


THIRD FLOOR

CONCEPTUAL FLOOR PLAN

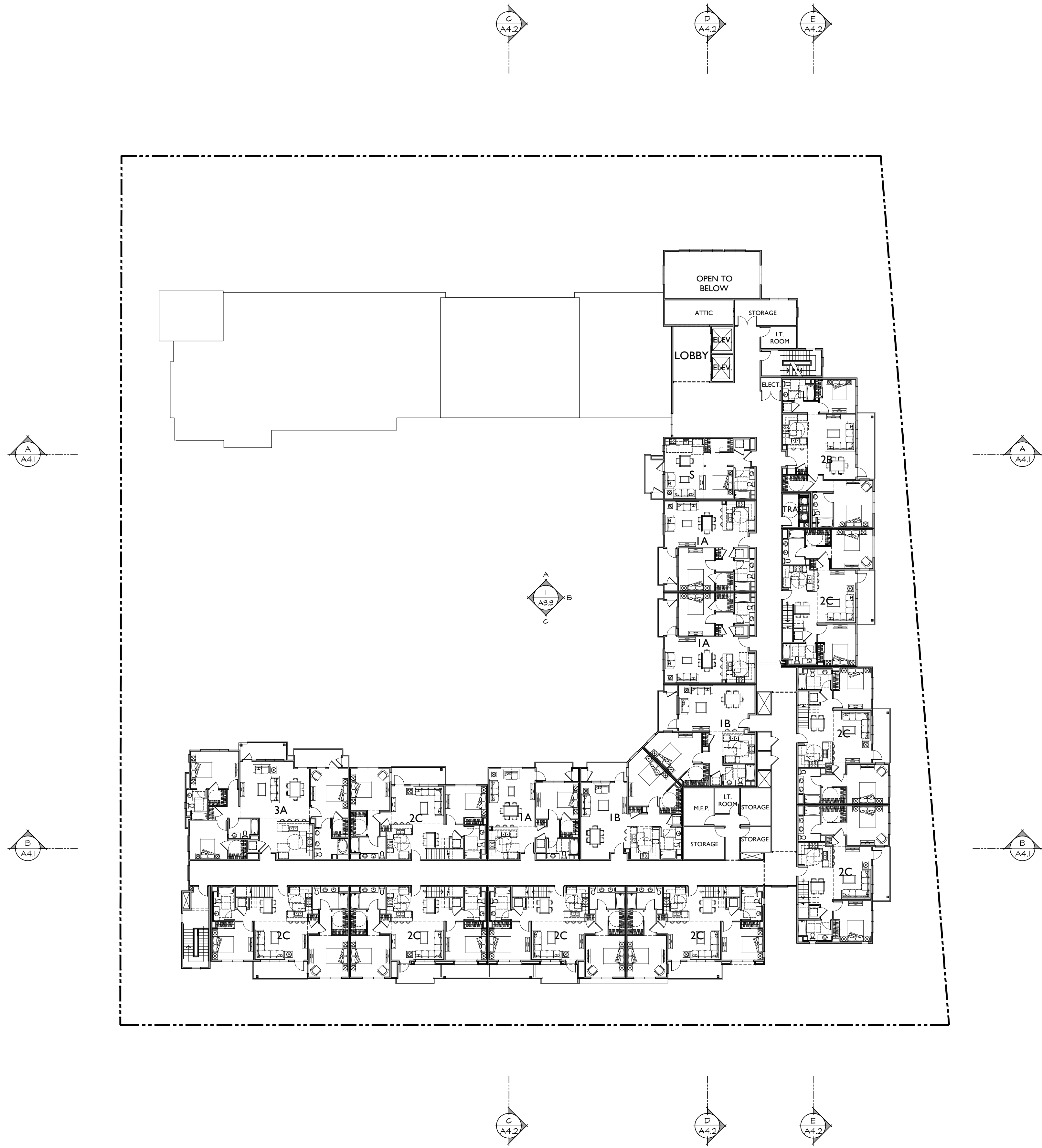
SUNSWEEET MIXED USE

Morgan Hill, California



SCALE: 1" = 20'-0"

A 2.4

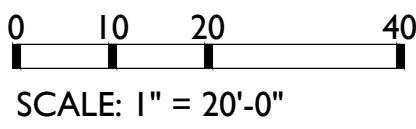


FOURTH FLOOR

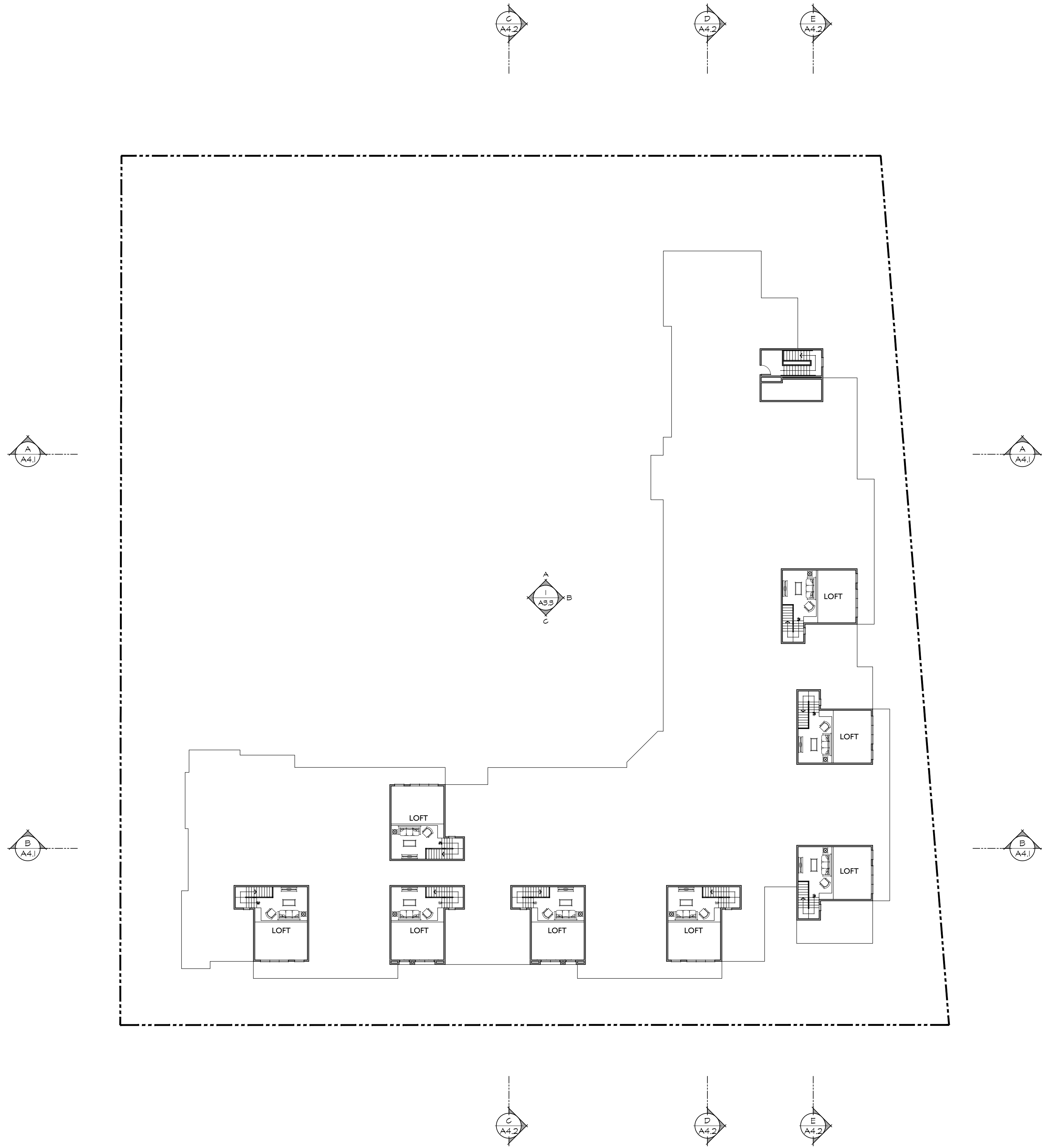
CONCEPTUAL FLOOR PLAN

SUNSWEEET MIXED USE

Morgan Hill, California



A 2.5

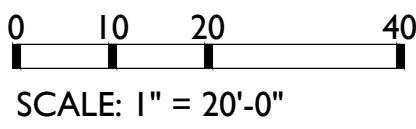


LOFT LEVEL

CONCEPTUAL FLOOR PLAN

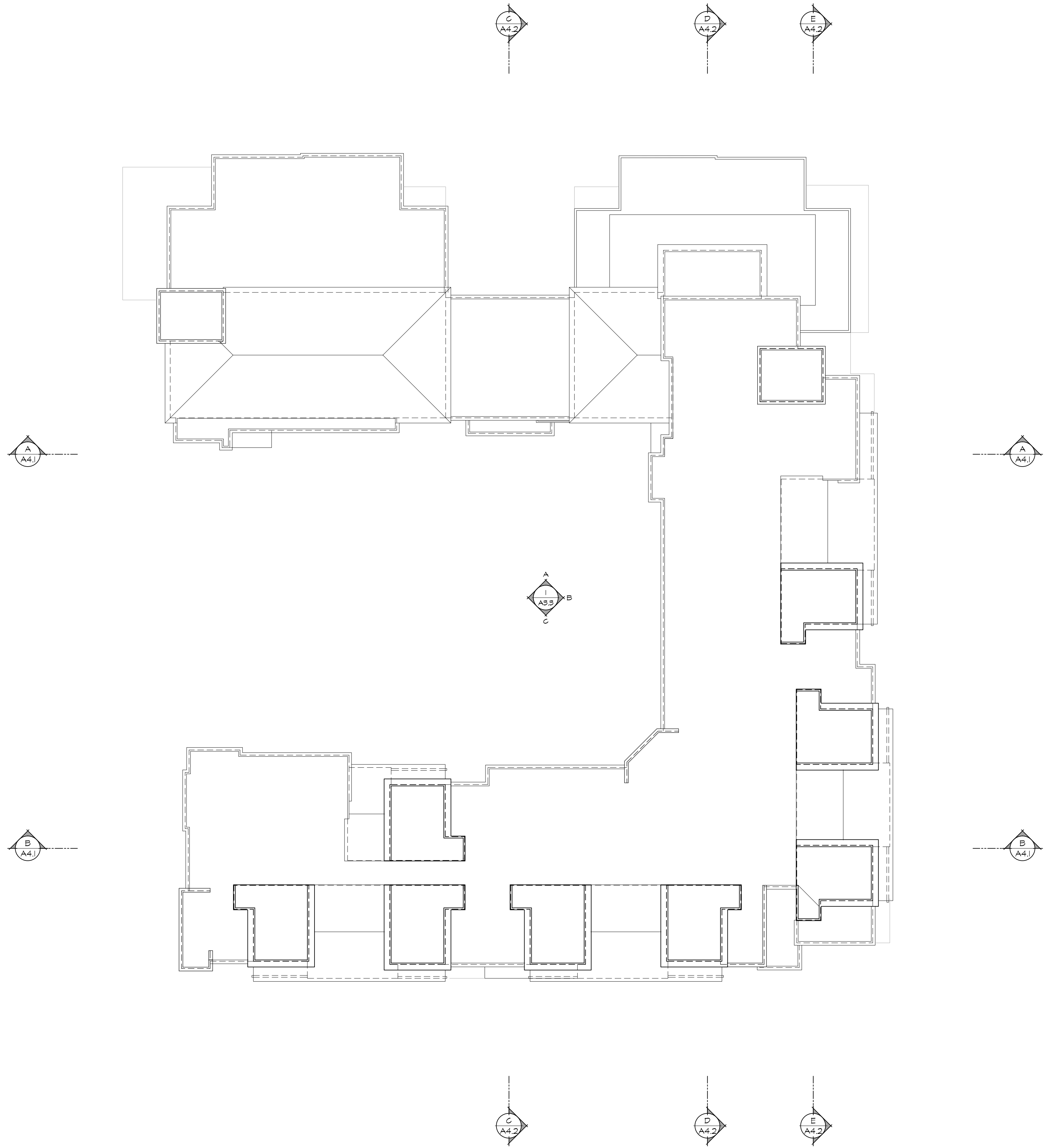
SUNSWEEET MIXED USE

Morgan Hill, California



A 2.6

Attachment: 3 16 17 Plans (1074 : SR 17-04: Depot-Sunsweet)



ROOF PLAN

CONCEPTUAL FLOOR PLAN

SUNSWEEET MIXED USE

Morgan Hill, California
0 10 20 40
SCALE: 1" = 20'-0"
A 2.7

03.16.17

MATERIAL LEGEND

- A. STANDING SEAM METAL ROOF
- B. STUCCO FINISH
- C. VINYL WINDOW
- D. LIGHT FIXTURE
- E. STOREFRONT GLASS DOOR
- F. BRICK VENEER
- G. BRICK TRIM
- H. PRECAST STONE BASE
- I. FOAM TRIM
- J. STUCCO COLOR TO MATCH PRECAST STONE COLOR
- K. DECORATIVE LIGHT
- L. SHAPED CORNICE
- M. WOOD FASCIA
- N. WOOD BARGE BOARD
- O. WOOD POST
- P. METAL RAILING
- Q. METAL TRELLIS
- R. CANVAS AWNING
- S. METAL AWNING
- T. BLADE SIGNS



ELEVATION
DEPOT STREET



ELEVATION
THIRD STREET

BUILDING I
Elevations
SUNSWEEET MIXED USE

Morgan Hill, California

0 6 12 24
SCALE: 3/32" = 1'-0" A 3.1

03.16.17

MATERIAL LEGEND

- A. STANDING SEAM METAL ROOF
- B. STUCCO FINISH
- C. VINYL WINDOW
- D. LIGHT FIXTURE
- E. STOREFRONT GLASS DOOR
- F. BRICK VENEER
- G. BRICK TRIM
- H. PRECAST STONE BASE
- I. FOAM TRIM
- J. STUCCO COLOR TO MATCH PRECAST STONE COLOR
- K. DECORATIVE LIGHT
- L. SHAPED CORNICE
- M. WOOD FASCIA
- N. WOOD BARGE BOARD
- O. WOOD POST
- P. METAL RAILING
- Q. METAL TRELLIS
- R. CANVAS AWNING
- S. METAL AWNING
- T. BLADE SIGNS



ELEVATION
ALLEY



ELEVATION
FOURTH STREET

BUILDING I
Elevations
SUNSWEET MIXED USE

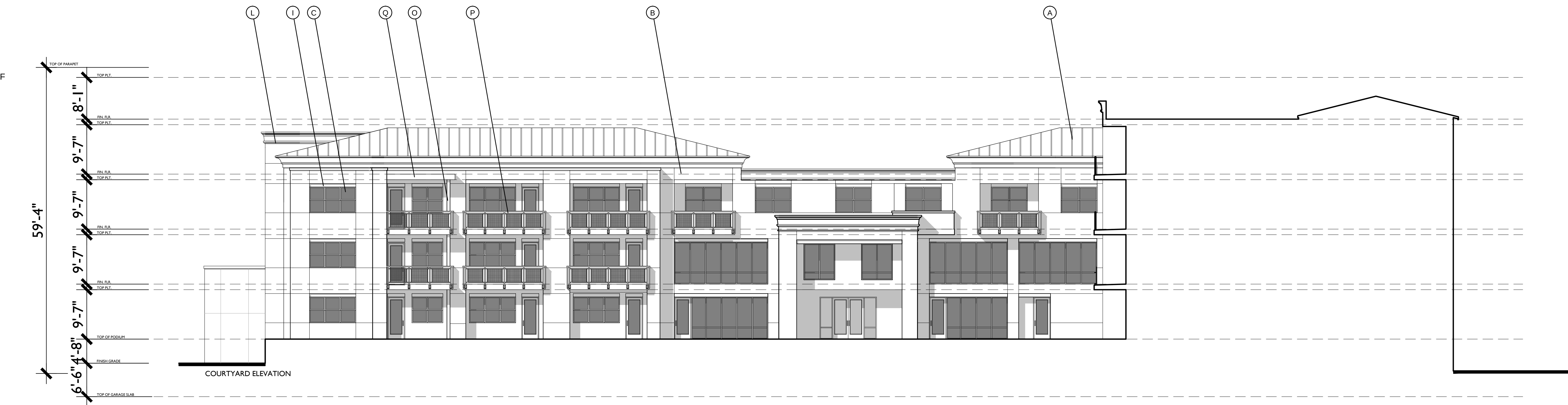
Morgan Hill, California

0 6 12 24
SCALE: 3/32" = 1'-0" A 3.2

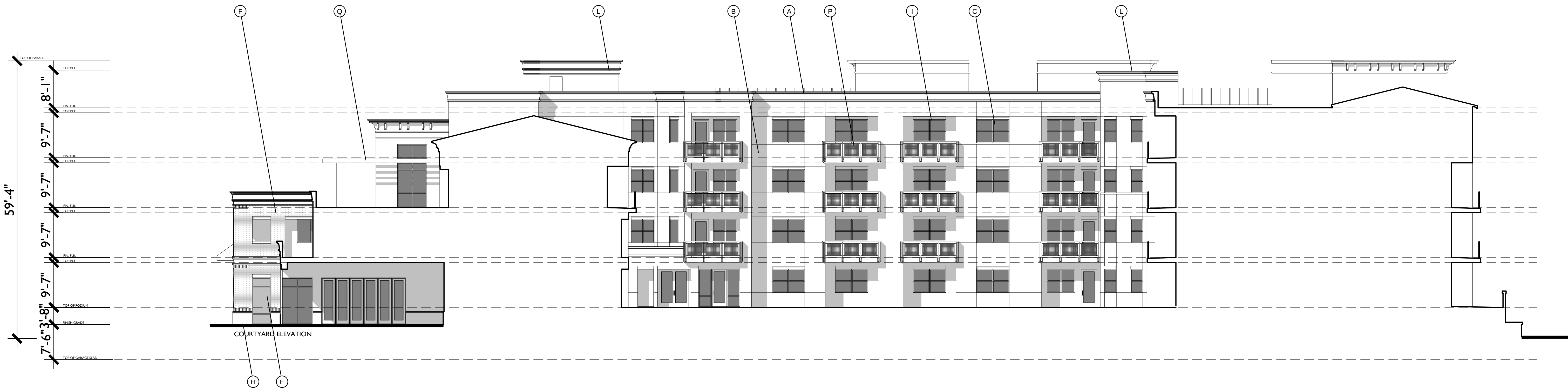
03.16.17

MATERIAL LEGEND

- A. STANDING SEAM METAL ROOF
- B. STUCCO FINISH
- C. VINYL WINDOW
- D. LIGHT FIXTURE
- E. STOREFRONT GLASS DOOR
- F. BRICK VENEER
- G. BRICK TRIM
- H. PRECAST STONE BASE
- I. FOAM TRIM
- J. STUCCO COLOR TO MATCH PRECAST STONE COLOR
- K. DECORATIVE LIGHT
- L. SHAPED CORNICE
- M. WOOD FASCIA
- N. WOOD BARGE BOARD
- O. WOOD POST
- P. METAL RAILING
- Q. METAL TRELLIS
- R. CANVAS AWNING
- S. METAL AWNING
- T. BLADE SIGNS



COURTYARD ELEVATION A



COURTYARD ELEVATION B

BUILDING I
Elevations
SUNSWEEET MIXED USE

Morgan Hill, California

0 6 12 24 A 3.3
SCALE: 3/32" = 1'-0"

MATERIAL LEGEND

- A. STANDING SEAM METAL ROOF
- B. STUCCO FINISH
- C. VINYL WINDOW
- D. LIGHT FIXTURE
- E. STOREFRONT GLASS DOOR
- F. BRICK VENEER
- G. BRICK TRIM
- H. PRECAST STONE BASE
- I. FOAM TRIM
- J. STUCCO COLOR TO MATCH PRECAST STONE COLOR
- K. DECORATIVE LIGHT
- L. SHAPED CORNICE
- M. WOOD FASCIA
- N. WOOD BARGE BOARD
- O. WOOD POST
- P. METAL RAILING
- Q. METAL TRELLIS
- R. CANVAS AWNING
- S. METAL AWNING
- T. BLADE SIGNS



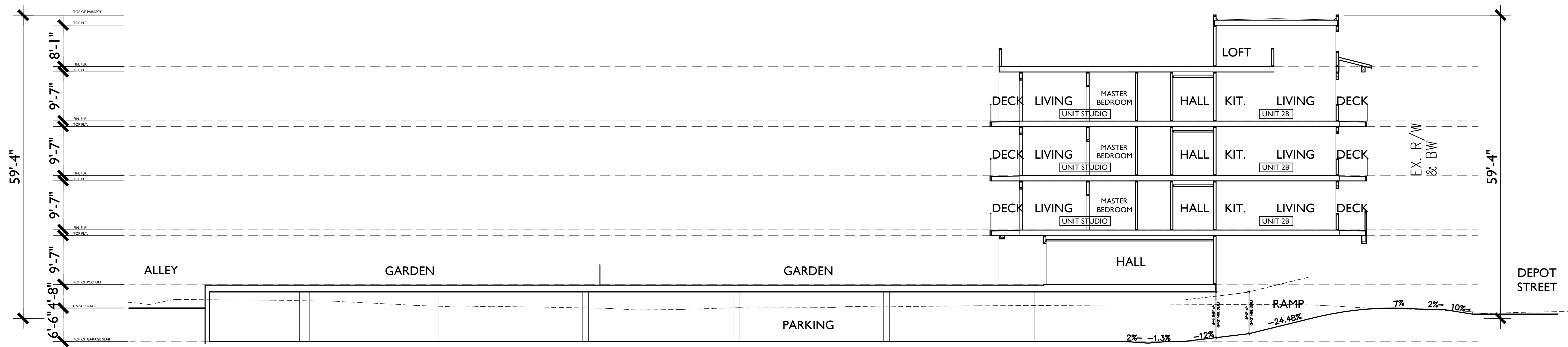
COURTYARD ELEVATION C

BUILDING I
Elevations
SUNSWEEET MIXED USE

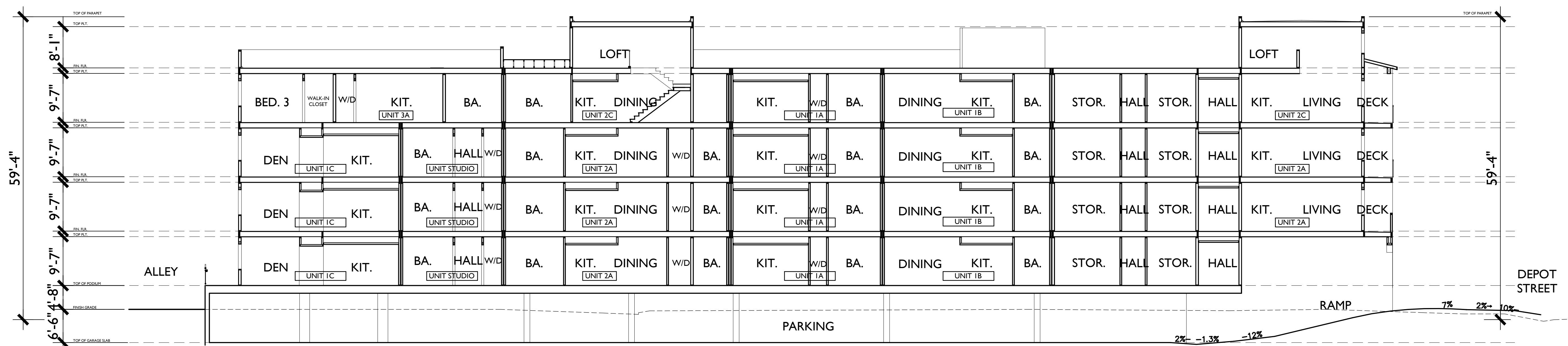
Morgan Hill, California

0 6 12 24 A 3.4
SCALE: 3/32" = 1'-0"

03.16.17



SECTION A

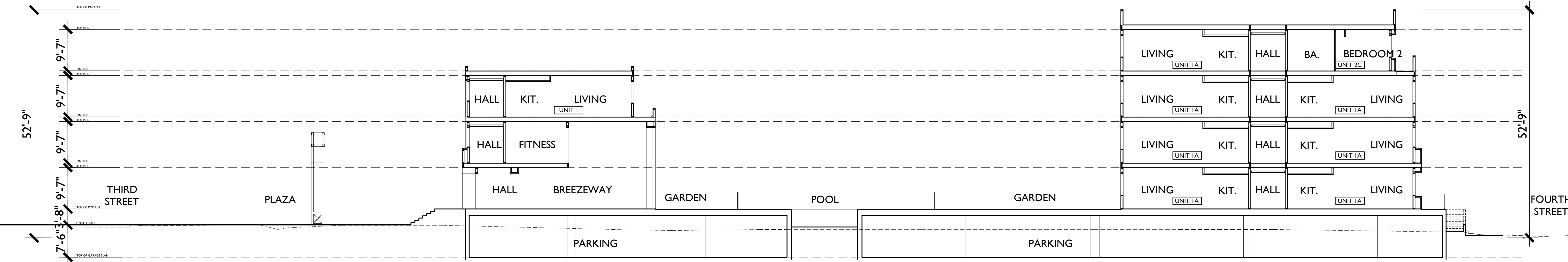


SECTION B

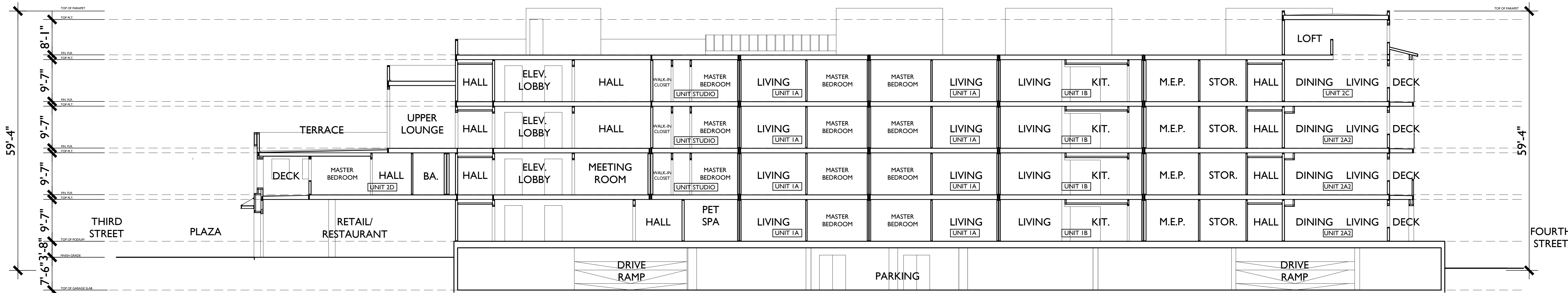
BUILDING I
Sections
SUNSWEET MIXED USE

Morgan Hill, California

0 6 12 24
SCALE: 3/32" = 1'-0" A 4.1



SECTION C

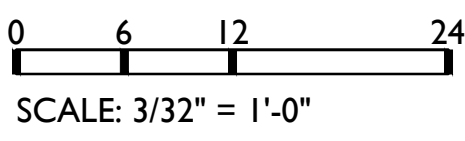


SECTION D

BUILDING I
Sections

SUNSWEET MIXED USE

Morgan Hill, California



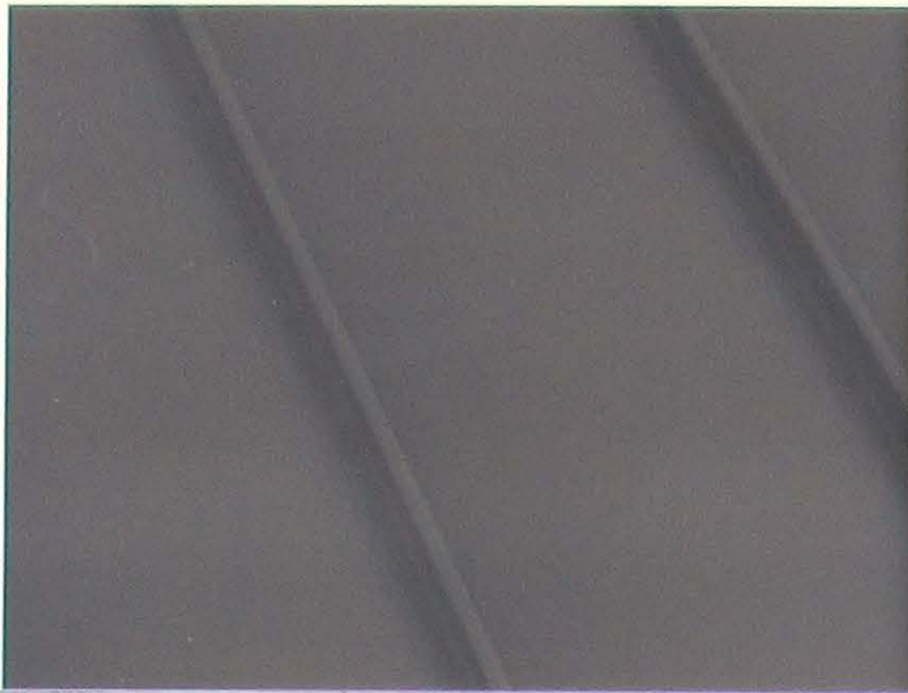
A 4.2

03.16.17

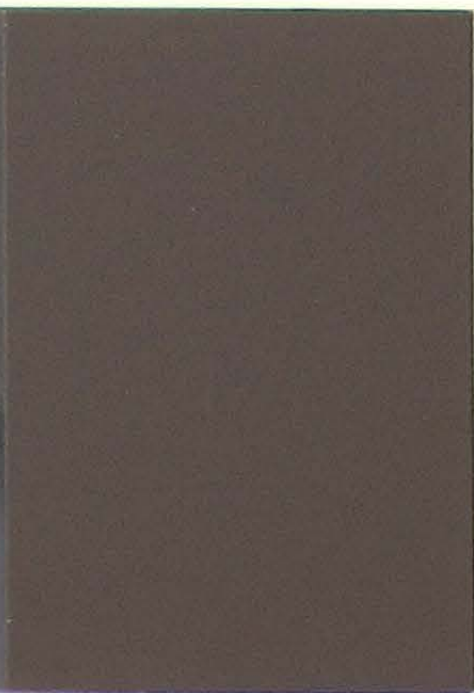


Copyright 2017 Bassenian | Lagoni Architects

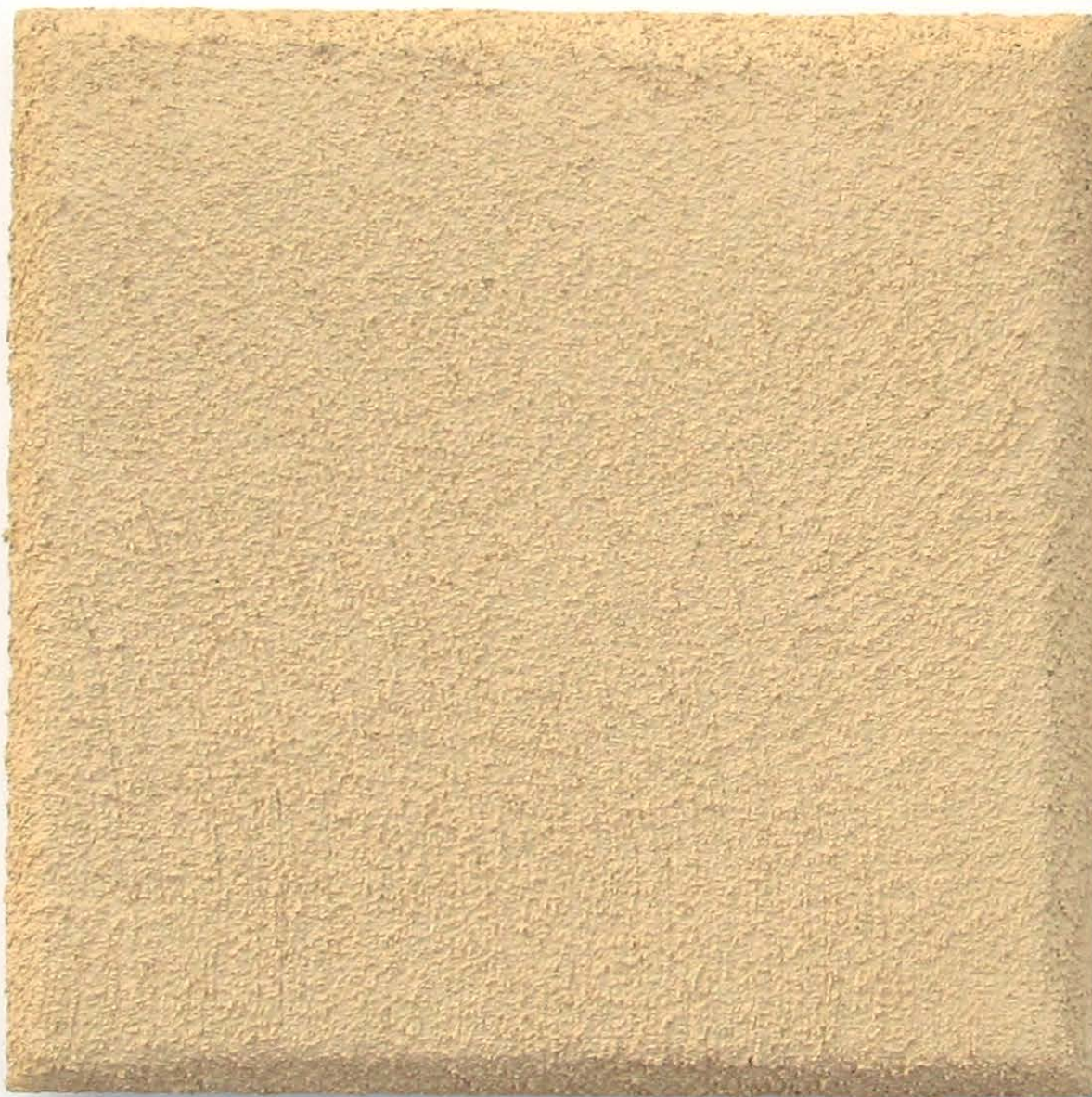
SUNSWEET MIXED USE APARTMENTS



METAL ROOF



AWNING



BASE STUCCO



PRECAST



TRIM

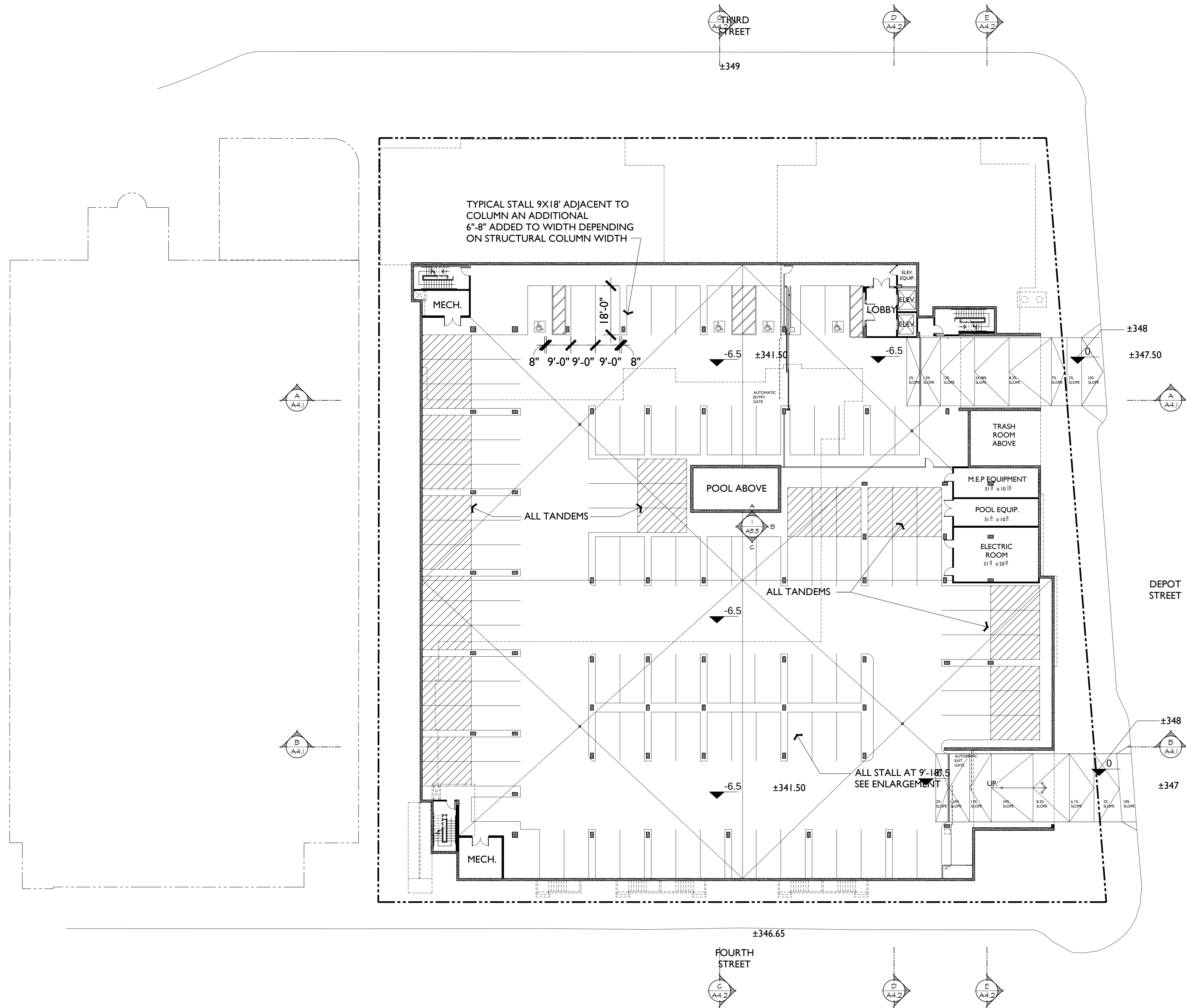


DOORS &
WINDOW FRAMES



BRICK





DEVIATION BASEMENT PLAN

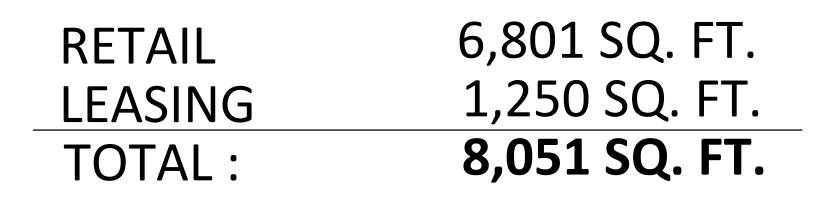
SUNSWEEET MIXED USE

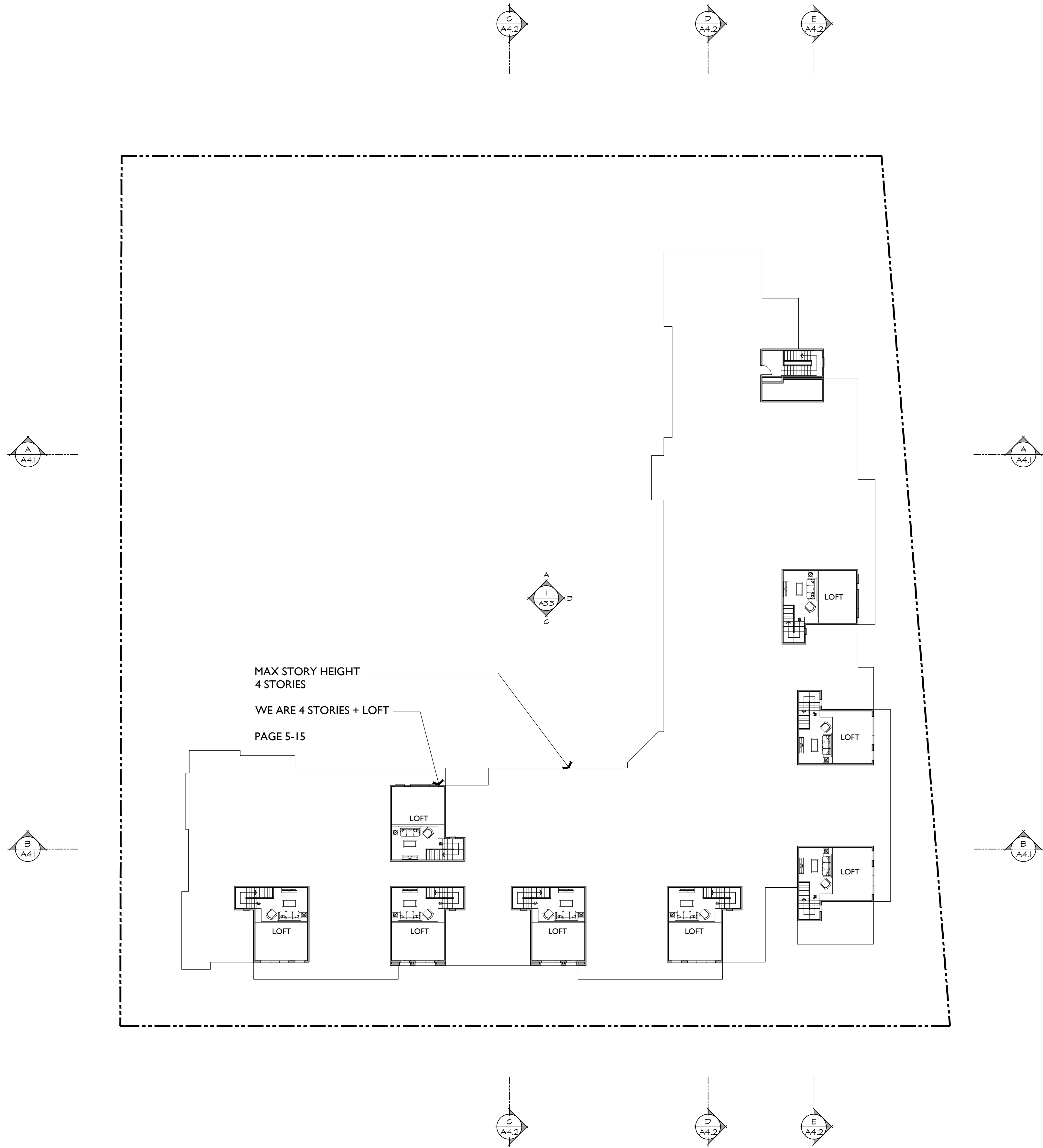
Morgan Hill, California

A 5.2

BASEMENT / GARAGE 129 STALLS W/ 9 X 18 PARKING

03.16.17





LOFT LEVEL

DEVIATION LOFT LEVEL PLAN

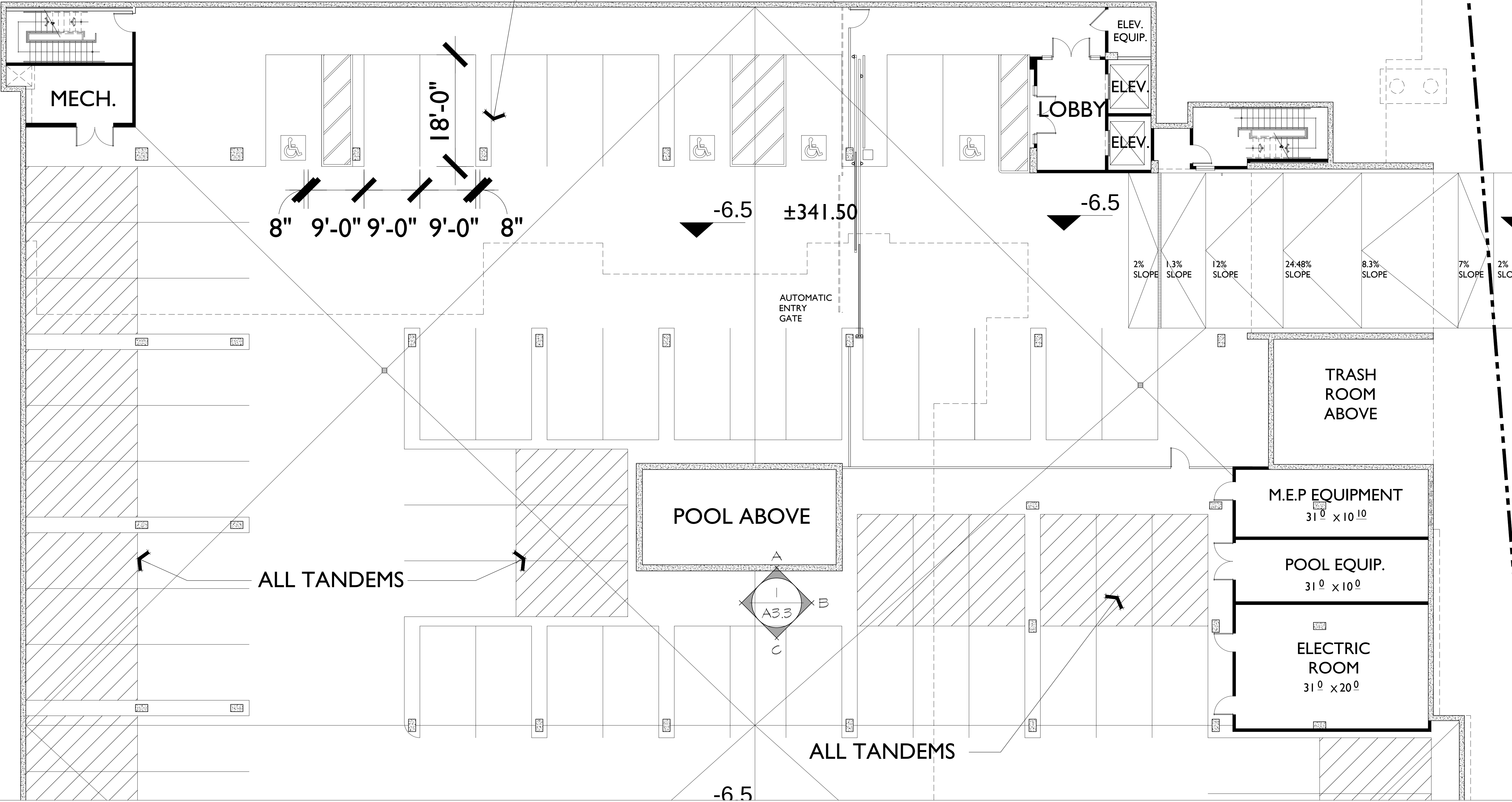
SUNSWEEET MIXED USE

Morgan Hill, California

A 5.4

03.16.17

TYPICAL STALL 9X18' ADJACENT TO COLUMN AN ADDITIONAL 6"-8" ADDED TO WIDTH DEPENDING ON STRUCTURAL COLUMN WIDTH



BASEMENT LEVEL

DEVIATION PARKING PLAN

SUNSWEEET MIXED USE

Morgan Hill, California
0 4 8 16
SCALE: 1/8" = 1'-0"
A 5.5

MH engineering Co.
16075 Vineyard Blvd., Morgan Hill, CA 95037

HMM
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

Bassenian | Lagoni
ARCHITECTURE • PLANNING • INTERIORS
Copyright 2017 Bassenian | Lagoni Architects



FRONT

PREVIOUS



FRONT

PROPOSED

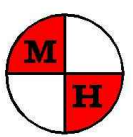
- FLAT METAL AWNING ON THE STOREFRONTS EAST OF THE PLAZA
- SINGLE STORY EDGE FOR CORNER BUILDING WITH VISUAL TRANSITION & SECOND FLOOR 7.5 FEET SETBACK FROM FIRST FLOOR
- DECORATIVE PANEL
- METAL RAILING DESIGN AT 2ND FLOOR BALCONY
- PROPORTIONAL WINDOW GROUPING AT UPPER LOUNGE
- ORNATE CORNICE WITH BRACKET DETAILS AT FEATURE TOWER
- PRECAST STONE WALL BASE WITH VERTICAL SAWTOOTH BRICK DETAILS
- WALL SCENCE ON COLUMN

BUILDING I
Elevations
SUNSWEEET MIXED USE

Morgan Hill, California

ELEVATION
THIRD STREET

03.16.17



MH engineering Co.
16075 Vineyard Blvd., Morgan Hill, CA 95037



Sunsweet
Morgan Hill LLC

Bassenian | Lagoni
ARCHITECTURE • PLANNING • INTERIORS

Copyright 2017 Bassenian | Lagoni Architects



PREVIOUS

PROPOSED

- PUBLIC ART PROPOSED WITH METAL ARCHED SIGN OVER PLAZA
- PRECAST STONE ARCH TOP AT MAIN ENTRANCE TO THE RESIDENTIAL STRUCTURE
- DECORATIVE CORNICE AT VARIOUS LEVELS OF BUILDING FACADE
- PRECAST STONE WALL BASE WITH VERITAL SAWTOOTH BRICK DETAILS
- PRECAST MATERIAL AT STAIR
- WALL SCONCE ON COLUMN

BUILDING I
Elevations
SUNSWEEET MIXED USE

Morgan Hill, California

ELEVATION
THIRD STREET

03.16.17



PREVIOUS



PROPOSED

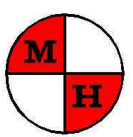
- EYEBROW DETAIL AT LEASING OFFICE
- CLOTH AWNING ON STOREFRONTS WEST OF THE PLAZA
- BLADE SIGNS AT EYE LEVEL ON THE COLUMNS
- DECORATIVE CORNICE AT VARIOUS LEVELS OF BUILDING FACADE
- METAL RAILING DESIGN AT 2ND FLOOR BALCONY
- PRECAST STONE WALL BASE WITH VERITAL SAWTOOTH BRICK DETAILS
- 36 INCHES SQUARE DECORATIVE METAL DETAIL
- WALL SCONCE ON COLUMN

BUILDING I
Elevations
SUNSWEEET MIXED USE

Morgan Hill, California

ELEVATION
THIRD STREET

03.16.17



MH engineering Co.
16075 Vineyard Blvd., Morgan Hill, CA 95037



Sunsweet
Morgan Hill LLC

Bassenian | Lagoni
ARCHITECTURE • PLANNING • INTERIORS

Copyright 2017 Bassenian | Lagoni Architects



PREVIOUS

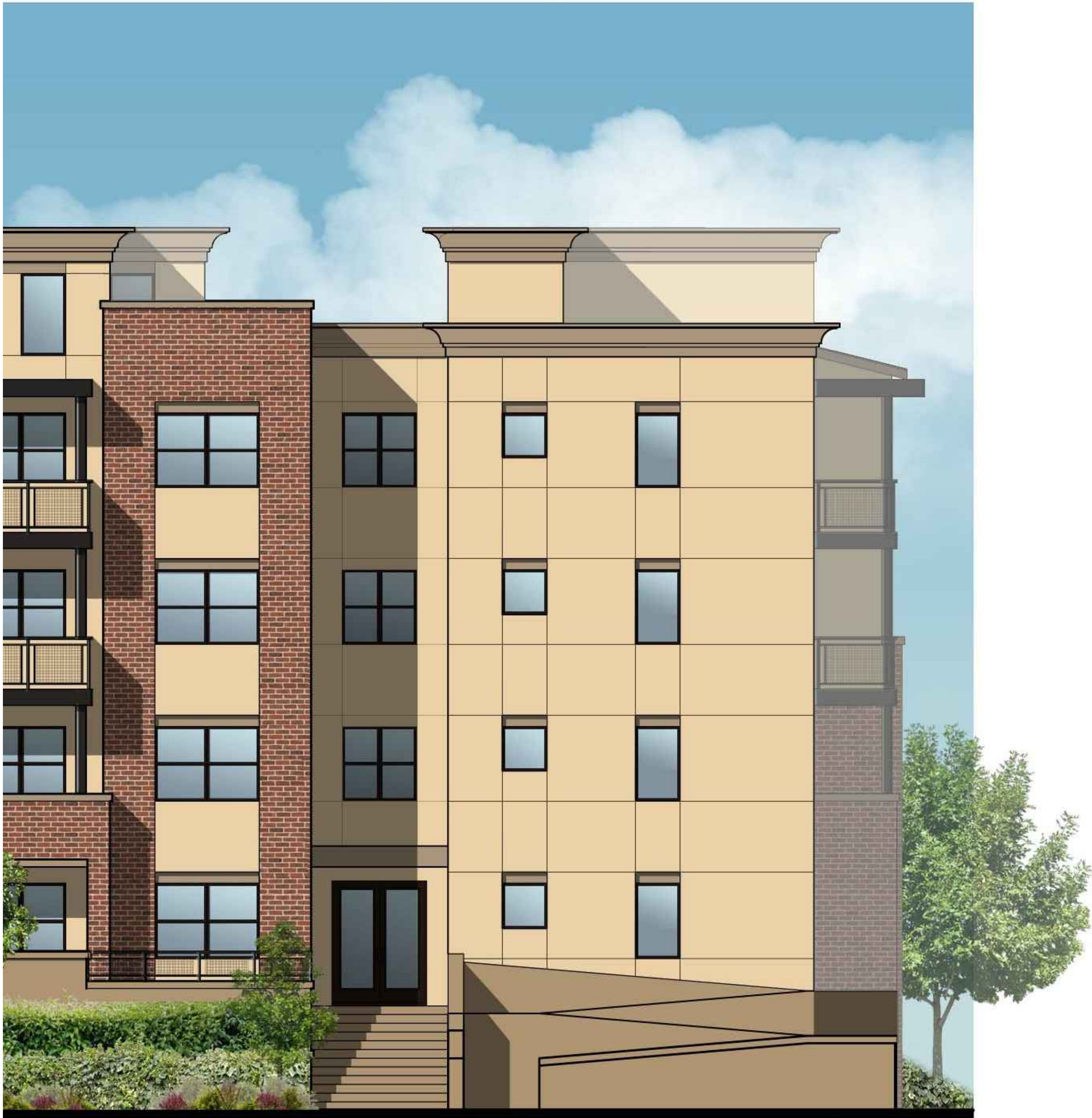
- PROPOSED
- MODIFY STOOPS AND PLANTERS TO ENCOURAGE PEDESTRIAN ACTIVITY
 - LOW WALL RAILING AT PORCH ENHANCING PRIVACY AND SECURITY
 - DECORATIVE CORNICE AT VARIOUS LEVELS OF BUILDING FACADE
 - IMPROVED METAL RAILING DESIGN
 - ORNATE CORNICE WITH BRACKET DETAILS AT TOWER
 - DEEP WINDOW SILL WITH DECORATIVE PANEL

BUILDING I
Elevations
SUNSWEEET MIXED USE

Morgan Hill, California

ELEVATION
FOURTH STREET

03.16.17



PREVIOUS



PROPOSED

- MORE DEFINED 4TH STREET RESIDENTIAL ENTRANCE WITH BRICK, WALL SCONCE AND PRECAST STONE EYEBROW
- ON 4TH STREET ENTRANCE
- LOW WALL RAILING AT RAMP AND PRECAST MATERIAL AT THE STAIR
- DECORATIVE CORNICE AT VARIOUS LEVELS OF BUILDING FACADE
- IMPROVED METAL RAILING DESIGN
- ORNATE CORNICE WITH BRACKET DETAILS AT TOWER

ELEVATION
FOURTH STREET

BUILDING I
Elevations
SUNSWEEET MIXED USE
Morgan Hill, California

03.16.17



PREVIOUS



PROPOSED

- DECORATIVE CORNICES PIECES AT VARIOUS LEVELS OF THE BUILDING
- PRECAST STONE ARCH WITH KEYSTONE
- DECORATIVE PANEL
- HORIZONTAL EXPRESSION BELT COURSE AT 4TH LEVEL
- IMPROVED METAL RAILING DESIGN
- ORNATE CORNICE WITH BRACKET DETAILS AT TOWER
- WALL SCONCE AT PARKING ENTRY

BUILDING I
Elevations
SUNSWEEET MIXED USE
Morgan Hill, California

ELEVATION
DEPOT STREET

03.16.17



PREVIOUS



PROPOSED

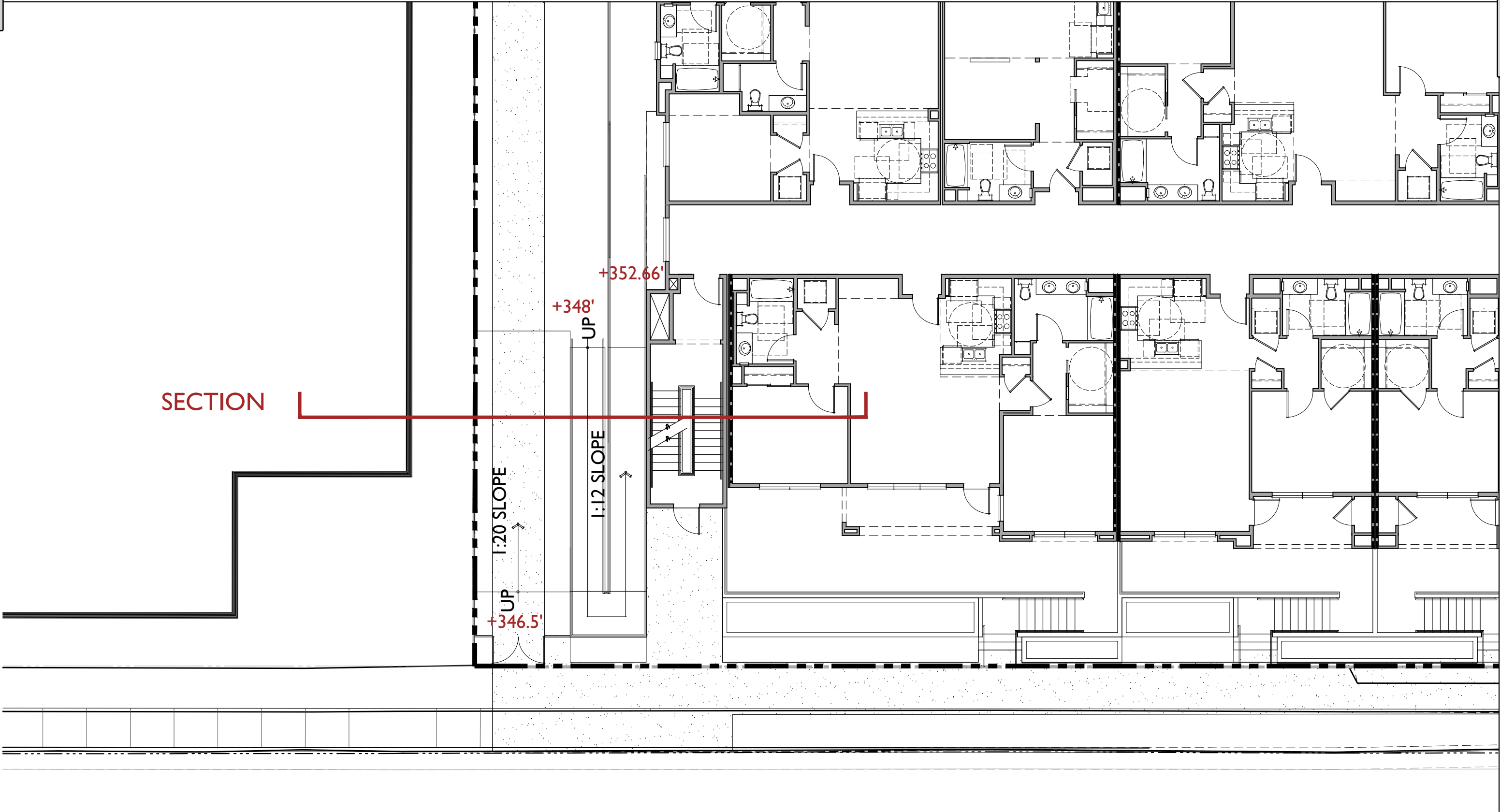
- OMITTED LOFT UNIT TO BRING DOWN THE BUILDING MASSING NEAR THIRD AND DEPOT STREET
- SINGLE STORY EDGE FOR CORNER BUILDING WITH VISUAL TRANSITION & SECOND FLOOR 6 FEET SETBACK FROM FIRST FLOOR
- FLAT METAL AWNING ON THE STOREFRONTS EAST OF THE PLAZA
- PRECAST STONE ARCH WITH KEYSTONE AT PARKING ENTRY & WALL BASE
- DECORATIVE PANEL
- IMPROVED METAL RAILING DESIGN
- ORNATE CORNICE WITH BRACKET DETAILS AT FEATURE TOWER
- WALL SCONCE AT PARKING ENTRY

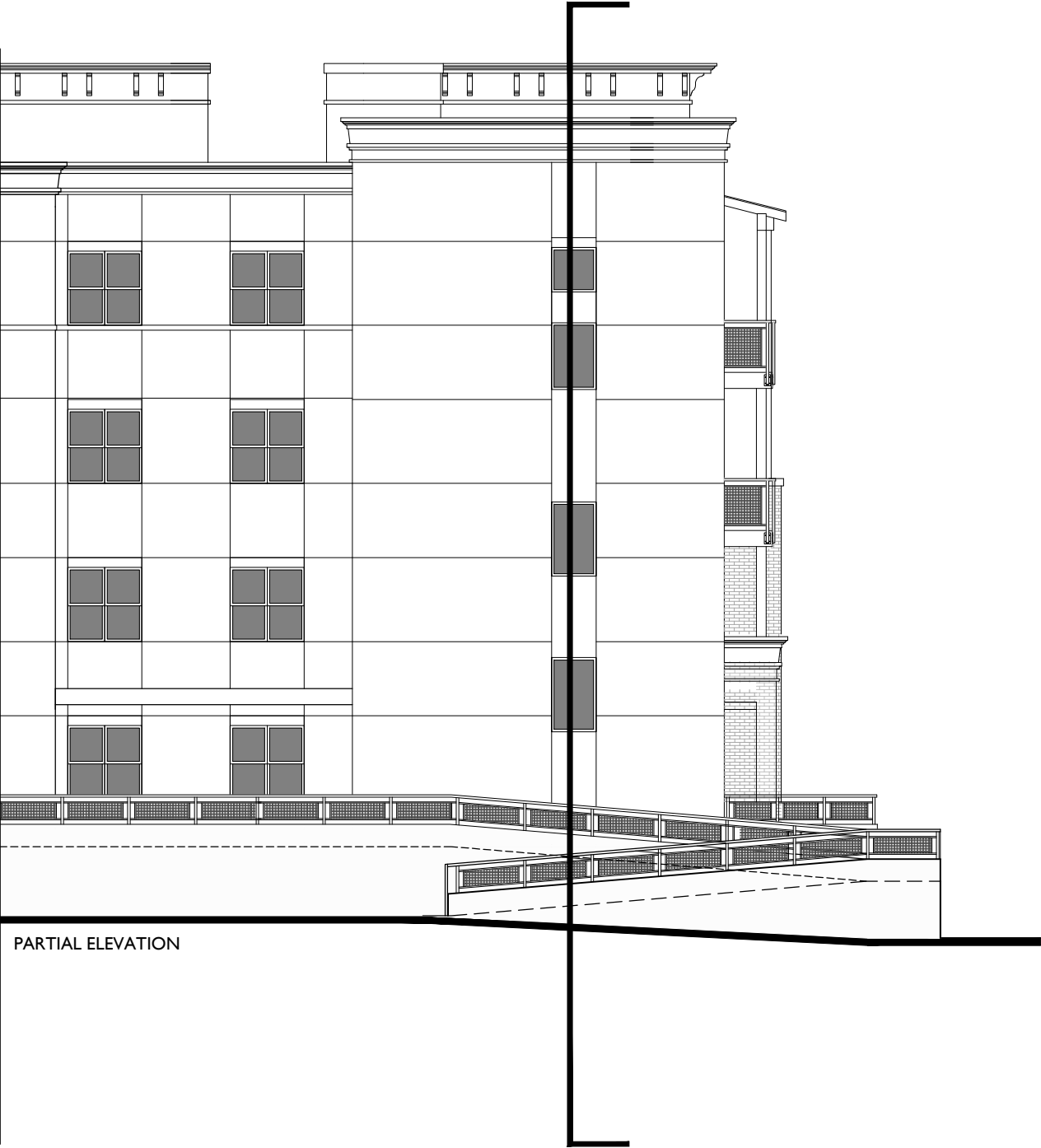
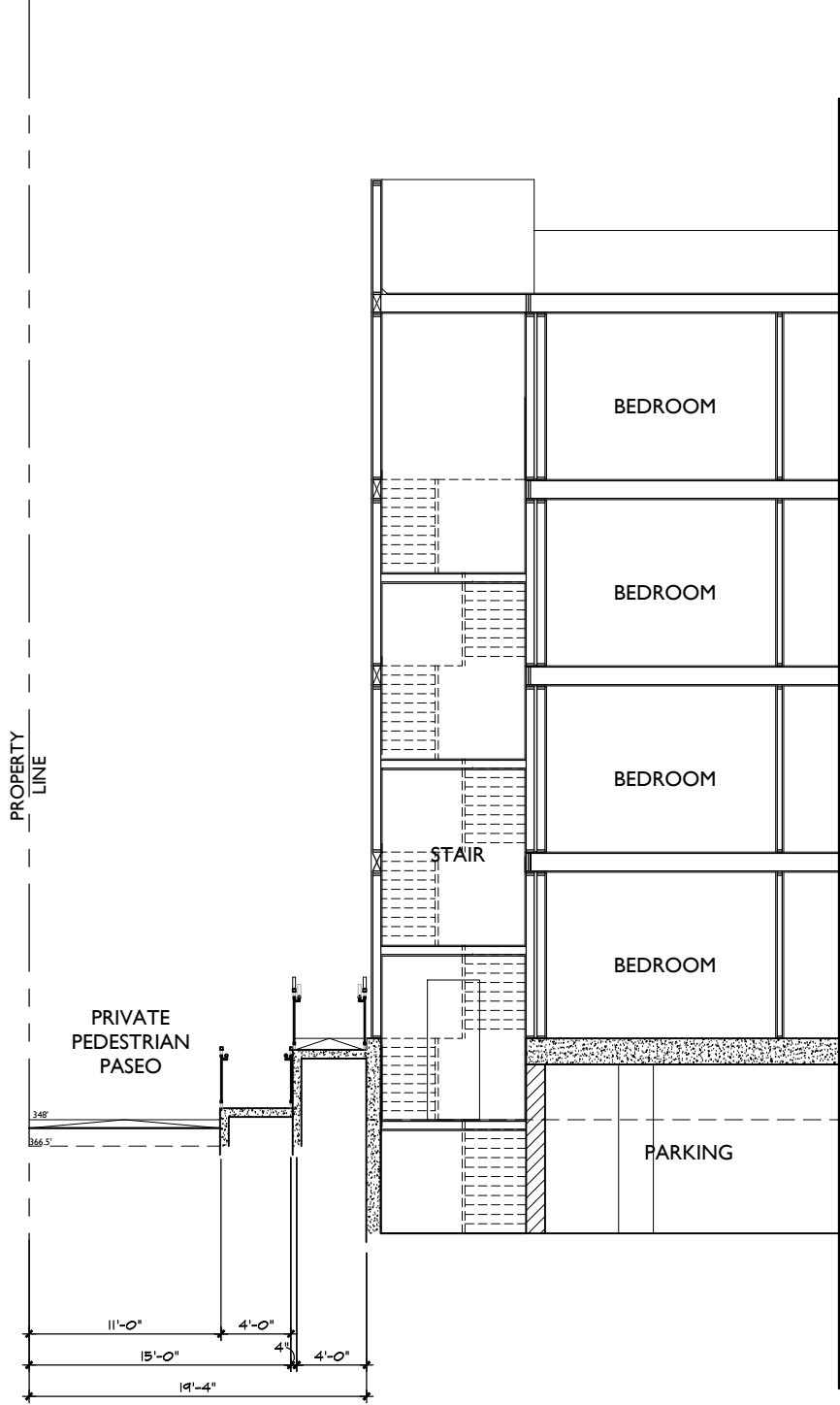
BUILDING I
Elevations
SUNSWEEET MIXED USE

Morgan Hill, California

ELEVATION
DEPOT STREET

03.16.17





March 15, 2017

Ms. Terry Linder
Interim Planning Manager
Development Services Department
City of Morgan Hill
17575 Peak Ave
Morgan Hill, CA 95037

Regarding: Parking Demand Management Overview for Sunsweet Mixed Use Project

Dear Ms. Linder,

This letter provides a general overview of the Sunsweet Mixed-Use project's approach to managing our parking facilities and encouraging our residents to take advantage of the bicycle/pedestrian and public transit amenities in the area to reduce their dependence on parking and single-occupancy vehicle trips. We are committed to comply with the downtown regulations and assist the Parking Enforcement department to manage the parking facilities within our project site to prevent any potential project impacts on the public parking lots in the Downtown Core area.

This plan has been prepared in support of our proposed mixed-use development encompassing approximately 1.65 acres of land within the Morgan Hill Downtown Specific Plan Area.

PROJECT OVERVIEW

The Sunsweet Mixed-Use Apartments project includes 83 apartment units and over 8,000 square feet of ground floor retail/ commercial uses. The site is surrounded by three major downtown commercial streets and the new City-owned 273 stall parking structure. The building will offer a unique and unmatched set of amenities that will be attractive to the demographic groups that are likely to be the residents (young professionals, single adults, seniors, and small families). The common space program includes a pool, fitness room, club house, pet amenities, garden, and rooftop lounge(s). This project features four stories above parking level with the maximum building height of 58 foot.

EXISTING DATA

130 stalls will be located within the building half a level below the surface and will include 1-2 assigned spaces per residential unit, 4 stalls per 1,000 SF of leasing office space, and 5 extra spaces that will be made available for the building residents and/or their guests. The current plan includes onsite self-parking at a ratio that exceeds the Specific Plan requirement and is expected to adequately meet demand.

PARKING OPERATIONS

Parking operations will be actively supervised by the onsite property management employees. A total of 130 self-parking spaces is proposed in the structured garage beneath the dwelling units. Vehicles will access the garage via ramps along Depot Street. The parking structure will include at least 2 handicapped spaces, 4 charging station for electric vehicles, and preferential parking for low-emission vehicles.

The garage will operate as a gated, self-park facility regularly monitored by the management company. Although self-parking is expected to adequately address tenant demand, the management company will employ several strategies to enforce the project's parking rules.

It should be noted that residents will prefer to park in a secured attached garage, versus an open lot as it allows for ease of ingress/egress, and ensures a safe path of travel as the vehicles would be parked in a secured, limited access location. That said, in order to defer the potential of any offset parking, our management company would include language in the lease packages describing the adjacent parking areas as areas designated to support the downtown retailers and not necessarily for resident daily use. We have prepared a revised Parking Addendum that will be included in each lease package, and agreed to by each resident prior to occupancy. This parking addendum will include the following language:

***"4. Adjacent Public Parking:** Please be advised that the Public Parking areas adjacent to APARTMENTS were developed and intended for the use and enjoyment of the downtown district's retail and restaurant guests. Please refrain from parking your personal vehicle in these parking areas so that these spaces may be reserved for the downtown retailer's guests."*

Additionally, we would incorporate a parking sticker numbering system that will assist in identifying residents that are abusing parking privileges.

LOADING

There will be areas specifically designated for deliveries and loading, such as a curb inlet along the Depot Street frontage. This area will accommodate deliveries, drop-offs and pick-ups, and move-ins, trash pick-ups, and staging for landscape maintenance. The loading zone has been purposefully located close to the elevators to upper floors and the trash room (which helps to simplify the move-in/move-out process). There will be ample width for moving tracks, as well as trash vehicles. Pickup trucks and passenger vehicles used for move-ins will be able to stage in the open areas of the garage.

DEMAND MANAGEMENT STRATEGIES

Public Transportation

Because this is a TOD development located within walking distance to the Morgan Hill Caltrain Station and Morgan Hill Downtown's retail and dining amenities, our marketing professionals will pitch Caltrain service and downtown access to potential tenants who will be interested in taking advantage of the bicycle/pedestrian and public transit amenities in the area.

Bicycle Facilities

To encourage bicycle ridership as an alternate means of travel, the project will provide secure bicycle storage and repair areas on multiple floors throughout the building.

A bike share program will be developed and implemented to make bicycles available as an alternate mode of travel for residents that may wish to use them to reach their destination within the City boundaries.

The project will provide a bicycle linkage with bike route along Depot Street integrated into the Specific Plan's bike route system.



Meridian @ Midtown Bicycle Kitchen Room

DEMAND MANAGEMENT STRATEGIES

Although the Specific Plan doesn't require the project to provide guest parking within in the parking garage, building management may determine that guest parking can be accommodated on a first-come/first serve basis on inside the parking garage if our management company determines that excess capacity is available onsite.

PARKING OPERATIONS EVALUATION

The effectiveness and the need for the various elements of the Parking Management program will be evaluated on a regular basis to ensure that the best available practices are in place at the site. Program measures will require refinement as project sites mature and travel patterns change in the area. Therefore, it is important to regularly monitor the site's trip making characteristics and to evaluate the performance of the on-site circulation and parking facilities to ensure efficient accessibility and mode choices available at the project site. Our management company will coordinate with the City of Morgan Hill to ensure that the development is in compliance

with the downtown parking rules and regulation, and we will provide any required assistance with parking rule enforcement.

Please let us know if you have any additional questions regarding parking lot operations at our project site. We will be happy to provide any additional information you may need.

As always, we very much appreciate your time and effort on this project.

Best regards,



Konstantin Voronin
Land Acquisition and Development Manager
Sunsweet Morgan Hill, LLC

Attachments

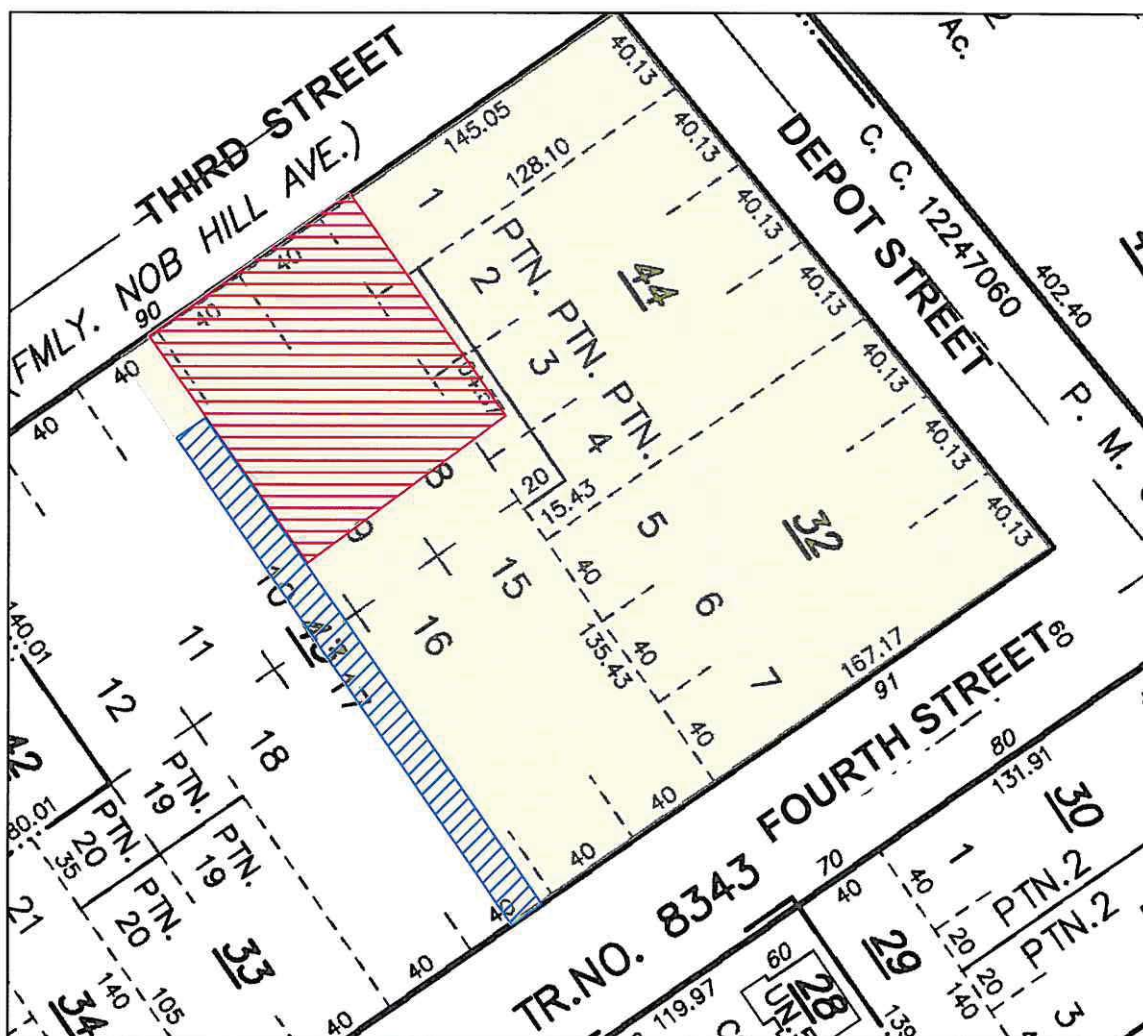
- Parking Addendum to the Lease Agreement

ADDENDUM TO THE LEASE AGREEMENT

This Parking Space Addendum (hereinafter "Addendum") is incorporated into the Lease Agreement (hereinafter the "Rental/Lease Agreement") entered into on _____ by the undersigned residents (hereinafter "Resident" or "You") and the undersigned owner or agent of owner (hereinafter "Landlord," "Owner" or "us") and is in addition to all terms and conditions contained in the Lease. Except as stated herein, to the extent that the terms of this Addendum conflict with those of the Lease, this Addendum shall control.

- 1. **Parking Space:**
The Rental/Lease Agreement is amended to include a parking space at _____ APARTMENTS commonly known as parking space # _____.
- 2. **Use:**
The parking space shall be used only for Resident's vehicle in accordance with the Community Rules and Regulations.
- 3. **Term:**
Regardless of the term of the Rental/Lease Agreement, the Resident's right to use the parking space is on a month-to-month basis, terminable by either party upon 30 days written notice, unless earlier terminated pursuant to a lease termination pursuant to California law. Therefore, even if the Rental/Lease Agreement is for a fixed term, Landlord may provide Resident 30 day's written notice terminating Resident's right to use the parking space, even though such termination occurred during the fixed term of the Rental/Lease Agreement, and such termination shall not otherwise affect the Rental/Lease Agreement.
- 4. **Adjacent Public Parking:**
Please be advised that the Public Parking areas adjacent to _____ APARTMENTS were developed and intended for the use and enjoyment of the downtown district's retail and restaurant guests. Please refrain from parking your personal vehicle in these parking areas so that these spaces may be reserved for the downtown retailer's guests.
- 5. **Other Terms:**
Except as specifically stated herein, all other terms and conditions of the Lease shall remain unchanged.

_____ (Resident)	_____ Date	_____ (Resident)	_____ Date
_____ (Resident)	_____ Date	_____ (Resident)	_____ Date
_____ (Resident)	_____ Date	_____ (Resident)	

[illegible]

	Property In Question - Fee
	Item No. 7 - Easement for Maintenance In 08/24/2014 # 22691506 Official Records Affects said portion as described in the document
	Item No. 8 - Easement for Access In 08/24/2014 # 22691506 of Official Records The exact location of the easement cannot be determined and is not plottable
	Item No. 9 - Easement for Temporary Construction In 08/29/2014 # 22691507 Official Records Affects said portion as described in the document

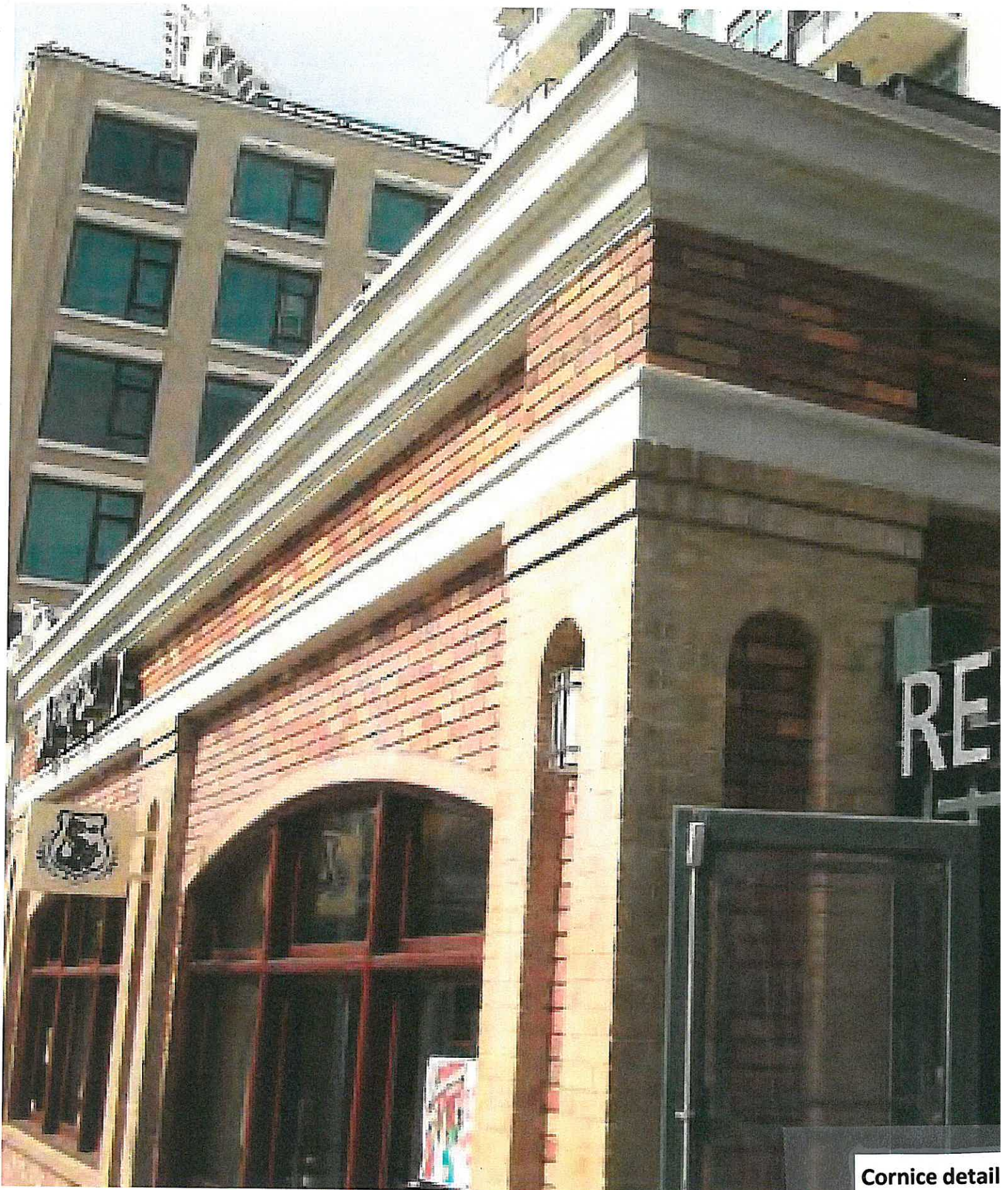
Packet Pg. 196



Example of breeze way feature leading into courtyard

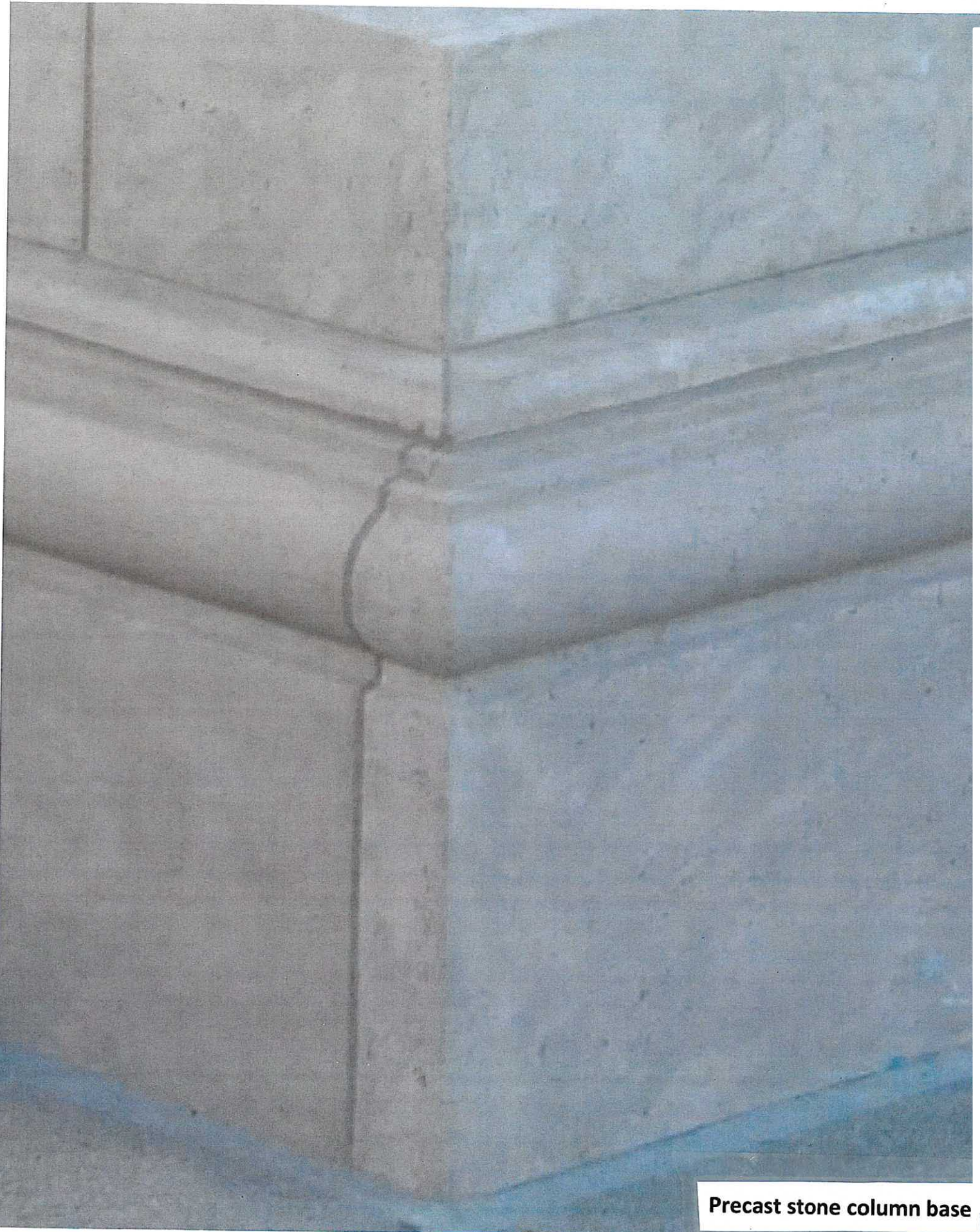


Cornice with dentils

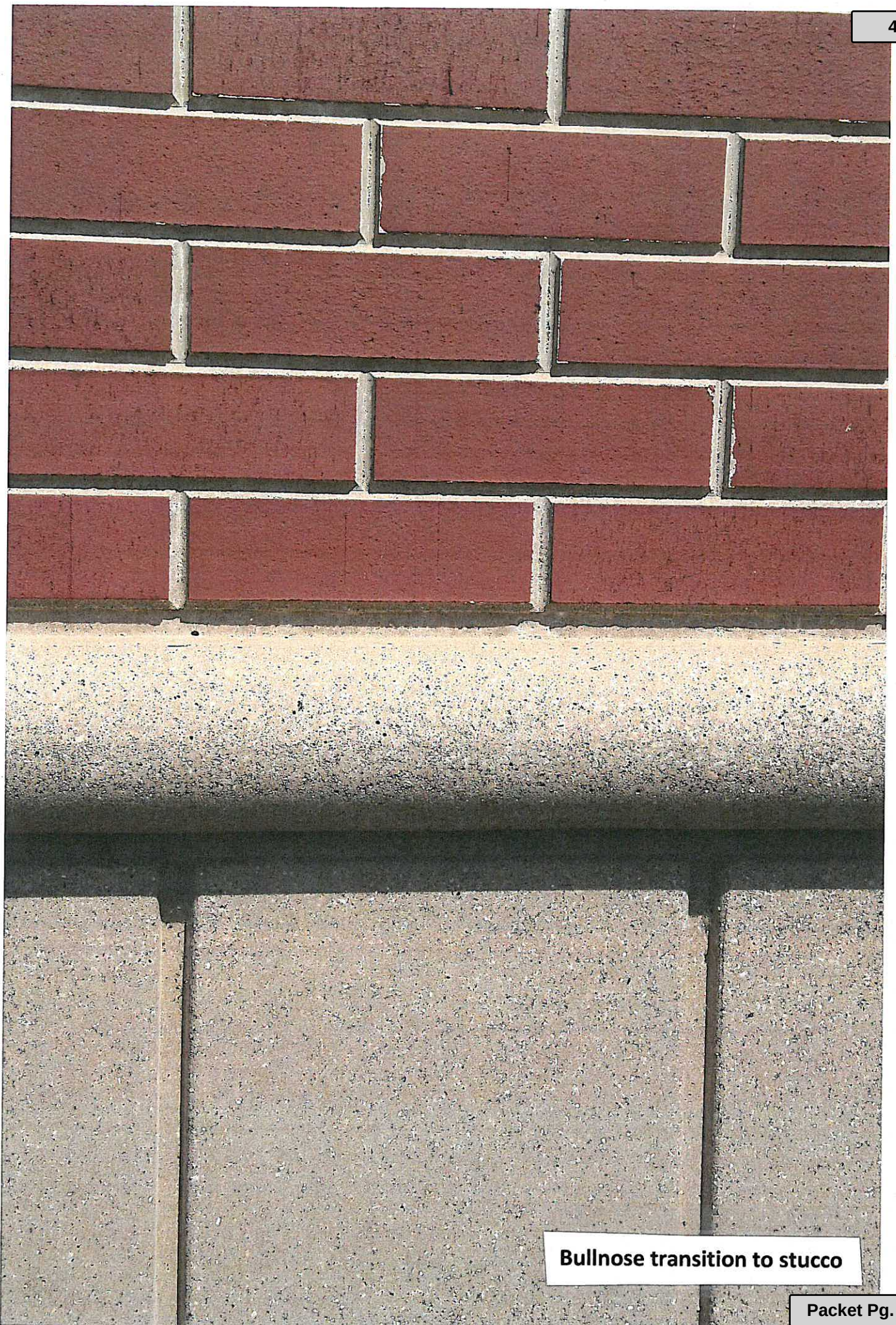


Attachment: Arch details (1074 : SR 17-04: Depot-Sunsweet)

Cornice detail



Precast stone column base

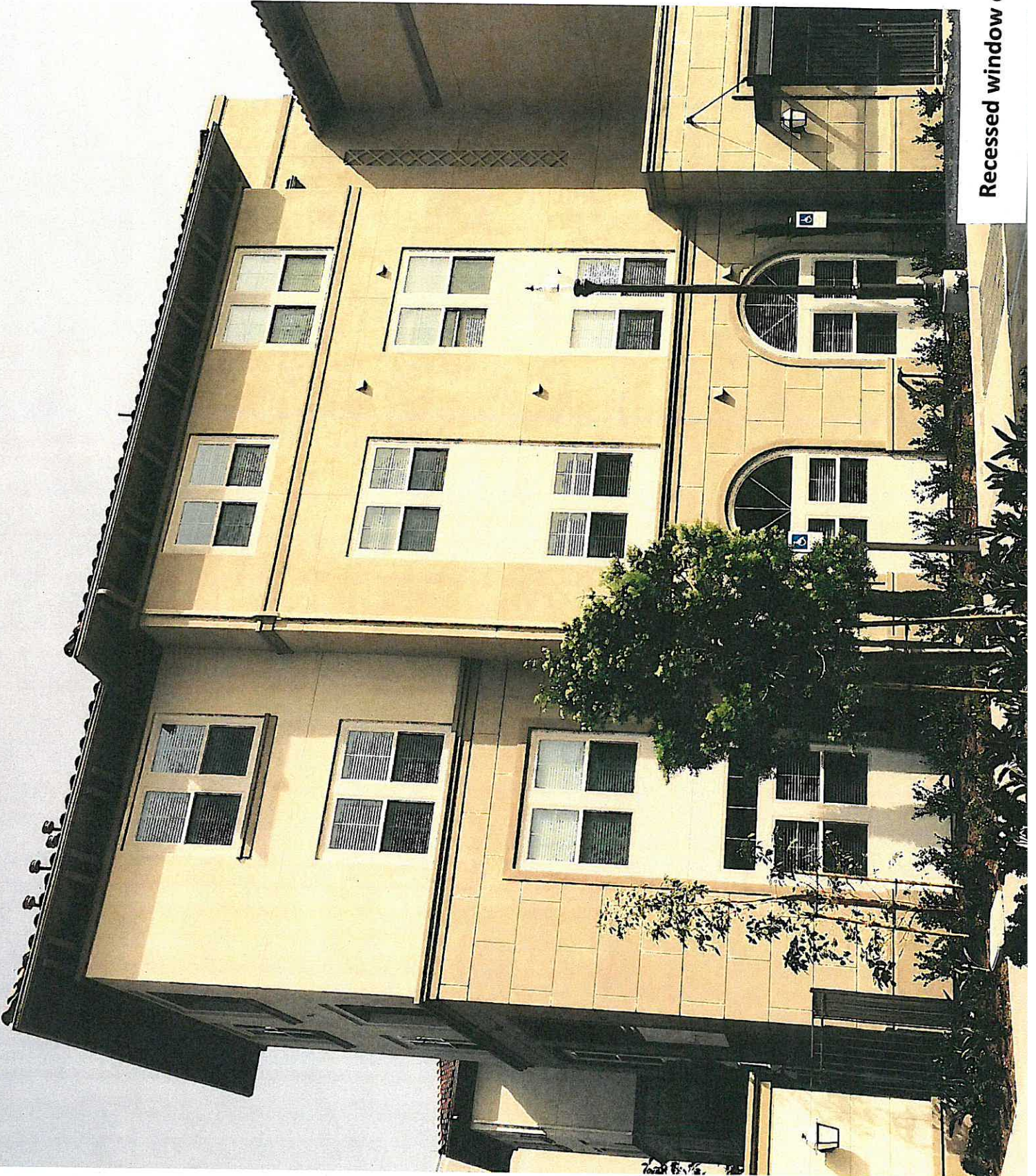


Bullnose transition to stucco

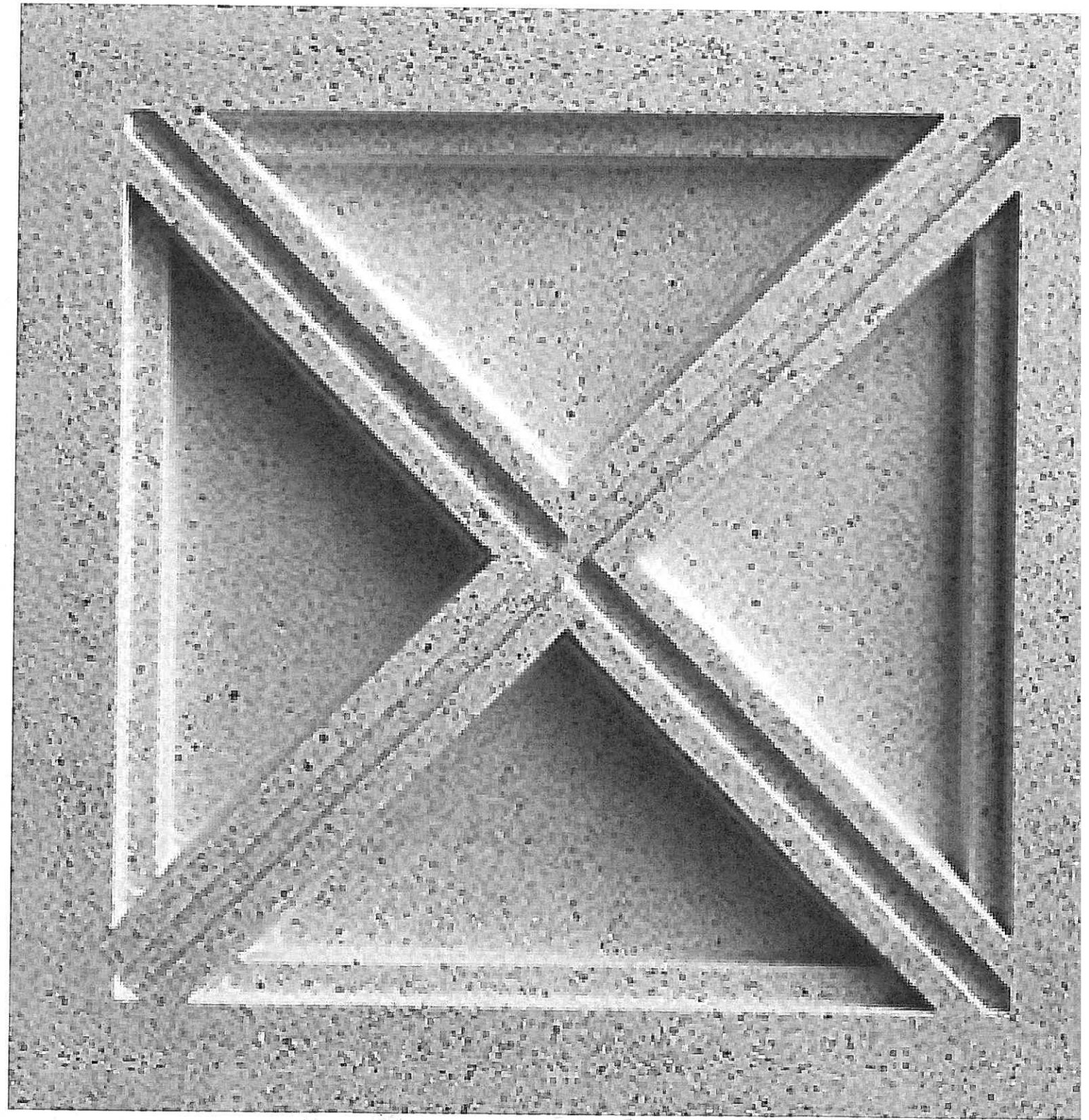
Brick and ledge detail around windows

Attachment: Arch details (1074 : SR 17-04: Depot-Sunsweet)

Recessed window detail

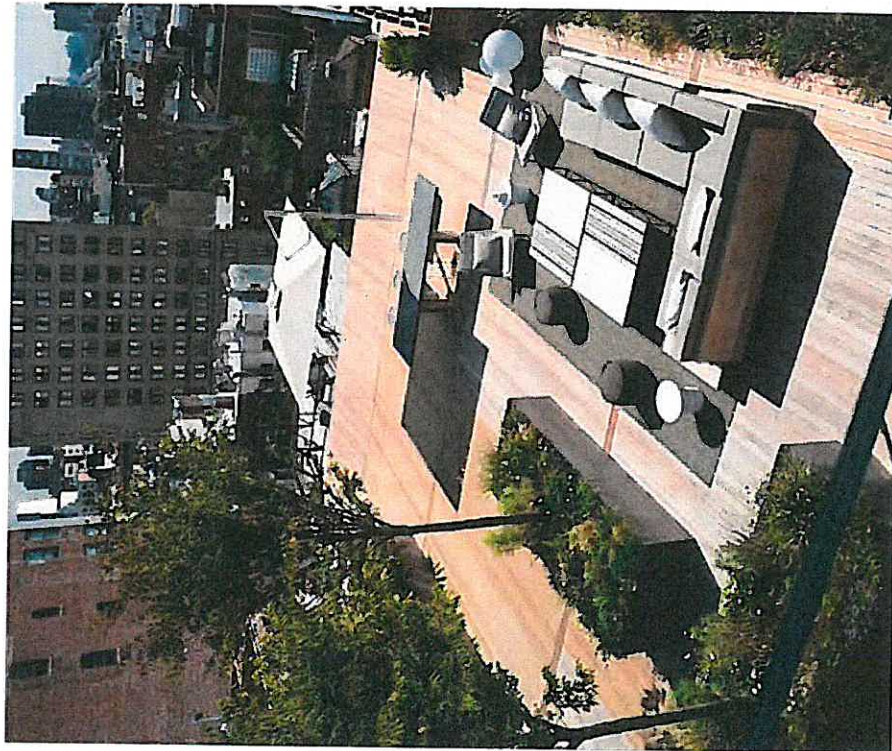


Attachment: Arch details (1074 : SR 17-04: Depot-Sunsweet)



Attachment: Arch details (1074 : SR 17-04: Depot-Sunsweet)

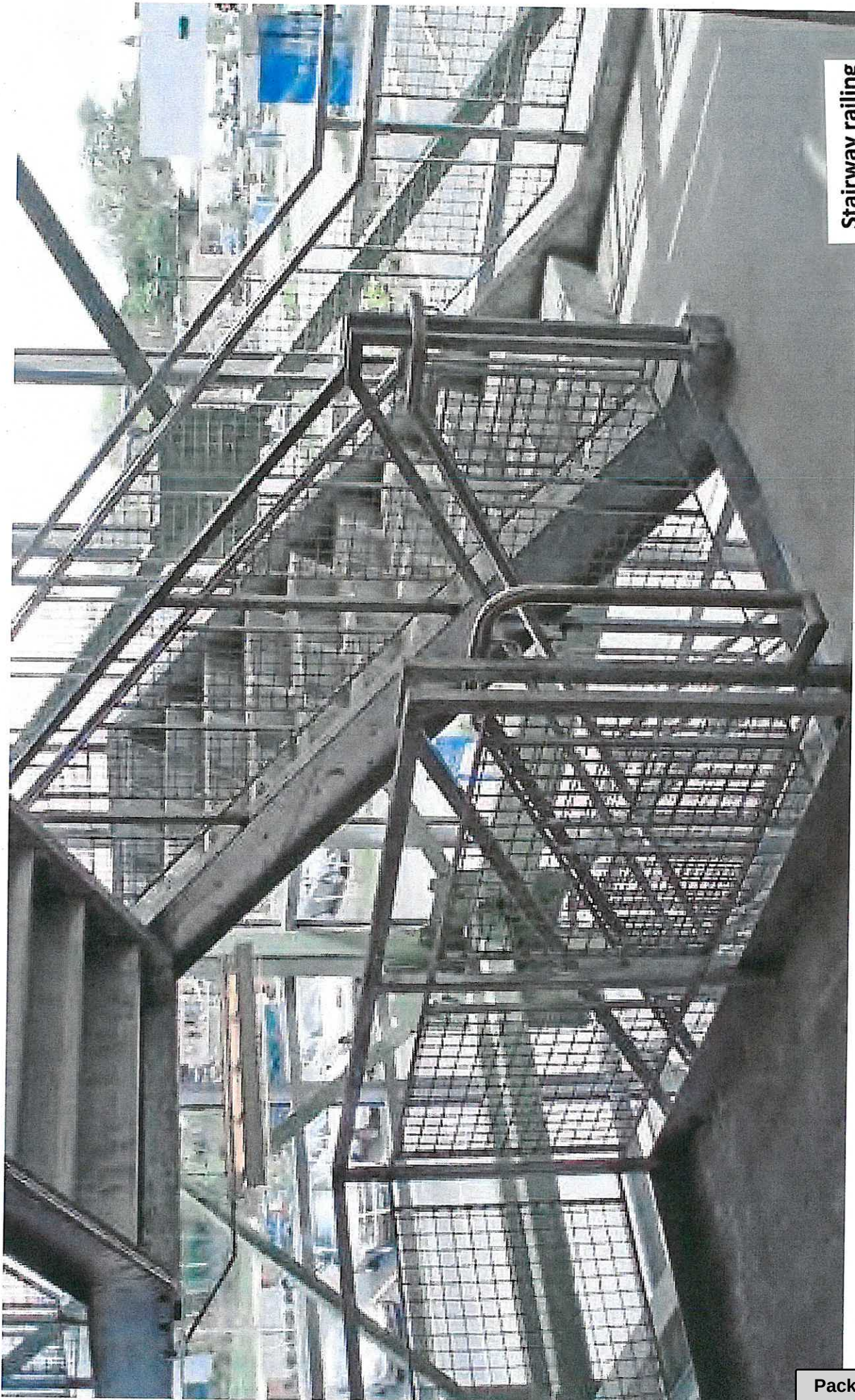
Architectural detail on stairwell tower behind leasing office



DECK

Deck material on roof top lounge

Stairway railing



Attachment: Arch details (1074 : SR 17-04: Depot-Sunsweet)



Wall sconce light



P5723-7130K9

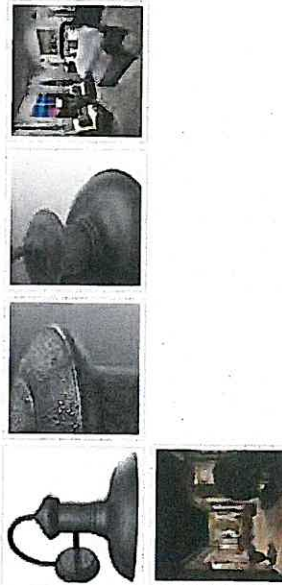
Get inspired with vintage undertones reminiscent of early 20th century train depots. This indoor/outdoor LED Wall lantern is cast aluminum, 3000K, 90+ CRI, 1,211 lumens.

- Inspired by vintage light fixtures found in early 20th century train stations.
- Cast aluminum with a textured Gilded Iron finish.
- Double arm attachment for stability

\$253.00

BUY ONLINE

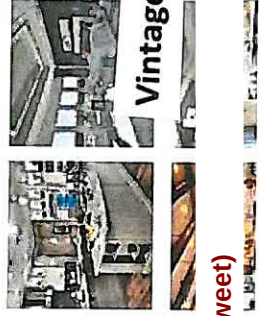
FIND A DEALER



Overview

Product Specifications	
Features	
Product SKU	P5723-7130K9
Family	Brookside
Category	Outdoor
Description	Get inspired with vintage undertones reminiscent of early 20th century train depots. This indoor/outdoor LED Wall lantern is cast aluminum, 3000K, 90+ CRI

Attachment: Lights, rails, awnings and signs (1074 : SR 17-04: Depot-Sunsweet)



Vintage light fixture

4.g



Fabric awning



Metal awning



Blade sign

DAVID FULLER
— 101 —