

ORDINANCE NO. 2231

AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING THE ZONING OF A 1.65-ACRE SITE LOCATED ON THE SOUTH SIDE OF EAST THIRD STREET, WEST OF DEPOT STREET AND NORTH OF EAST FOURTH FROM CENTRAL BUSINESS DISTRICT CBD, TO CENTRAL BUSINESS DISTRICT PLANNED DEVELOPMENT AND ADOPT A PRECISE DEVELOPMENT PLAN FOR A MIXED-USE PROJECT CONSISTING OF 83 MARKET RATE RENTAL APARTMENTS AND 7859 SQUARE FEET OF COMMERCIAL SPACE (APNS 726-13-032, 044 & 054)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- SECTION 1.** Establishing a PD zoning district on a 1.65 acre site located on the west side of Depot Street, north of East Fourth Street and south of East Third Street.
- SECTION 2.** FINDING OF CONSISTENCY WITH THE GENERAL PLAN. The City Council hereby finds that the amendment(s) established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the Downtown Specific Plan, Zoning Ordinance, and the General Plan General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.070 of the Morgan Hill Municipal Code.
- SECTION 3.** With the exception of the variations approved as part of the PD Overlay Zoning, the project shall comply with the site development standards of the underlying CBD Zoning District and Ground Floor Overlay District.
- SECTION 4.** Approval of a zoning amendment to establish a PD Overlay Zoning District for mixed-use 83 unit apartment project is based on the following findings
- a. The project provides a 83 highly amenitized market rate apartments units within the downtown; and
 - b. The project provides below grade parking for each residential unit; and
 - c. The project creates an active Downtown village through intensifying residential, retail, restaurant and commercial uses, within an urban setting improved with unified landscaping and streetscape improvements; and
 - d. The project strengthens Downtown's identity and scale with new design that relates to the existing downtown character; and

- e. The project creates a visual and physical link to downtown with landscaping, lighting, commercial frontage, and signage; and
- f. The project is in substantial compliance with the Design Guidelines.
- g. The project is in substantial compliance with the Central Business District and Ground Floor Overlay zoning designations.

SECTION 5. The City Council of the City of Morgan Hill hereby finds that the project site is within the Downtown Specific Plan area and covered under the Master Environmental Impact Report certified in November 2009.

An initial study was conducted for this project and concludes that to date within the Downtown Specific Plan area, there has been no additional commercial or office square footage. Since the adoption of the Specific Plan and its MEIR, 267 residential dwelling units have been approved. Therefore to date, development has been within the projections described in the Master EIR. The Master EIR anticipated the extension of Butterfield Boulevard to Monterey Road, which is now complete. Based on the Initial Study, the finding can be made that no substantial changes have occurred with respect to the circumstances under which the MEIR was certified, or that there is no new available information, which was not known and could have been known at the time the MEIR was certified. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 6. The City Council finds that the proposed Planned Development (PD) Overlay District is consistent with the criteria specified in Chapter 18.30 of the Morgan Hill Municipal Code. The boundary of the PD designation is shown on the attached Exhibit A.

SECTION 7. The City Council hereby approves of a precise development plan as contained in attached Exhibit B and contained in that certain series of documents dated February 1, 2017, on file at the Community Development Department, entitled "Sunsweet Mixed Use" prepared by MH Engineering, Bassenian & Lagoni Architects and HMM Landscape Architects. The documents as amended by the Design Permit approval show the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses of the project.

SECTION 8. Approval of the PD Overlay Zoning shall allow the following variations to the development standard and design guidelines of underlying CBD, Central Business District and GFO, Ground Floor Overlay:

- A 35-foot reduction to the required 80-foot by 80-foot minimum corner commercial space depth;
- All ground floor commercial space shall have a minimum 45-foot depth.

- A minimum of 7859 square feet of commercial building space shall be maintained on E. Third Street.
- The maximum building height at the 10, fifth floor loft spaces shall be 60 feet as measured from grade at public sidewalk.
- No more than 2000 square feet of the westerly commercial space shall be used for a leasing office for the associated housing on the site.
- The leasing office frontage shall be minimized on East Third Street.
- Commercial uses shall occupy the building spaces on the east and west side of the plaza.
- The standard parking in-lieu fee shall be paid for each parking stall below the minimum required,

SECTION 9. The approved PD plan shall incorporate the variations listed in Section 8 of this resolution and with the Other Conditions listed in attached Exhibit D.

SECTION 10. 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 (a) under development agreements, (b) pursuant to agreements with the Morgan Hill Redevelopment Agency or (c) 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.

SECTION 11. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 12. Effective Date; Publication. This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 1st DAY OF FEBRUARY 2017, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 15th DAY OF FEBRUARY 2017 AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

✧ CERTIFICATION ✧

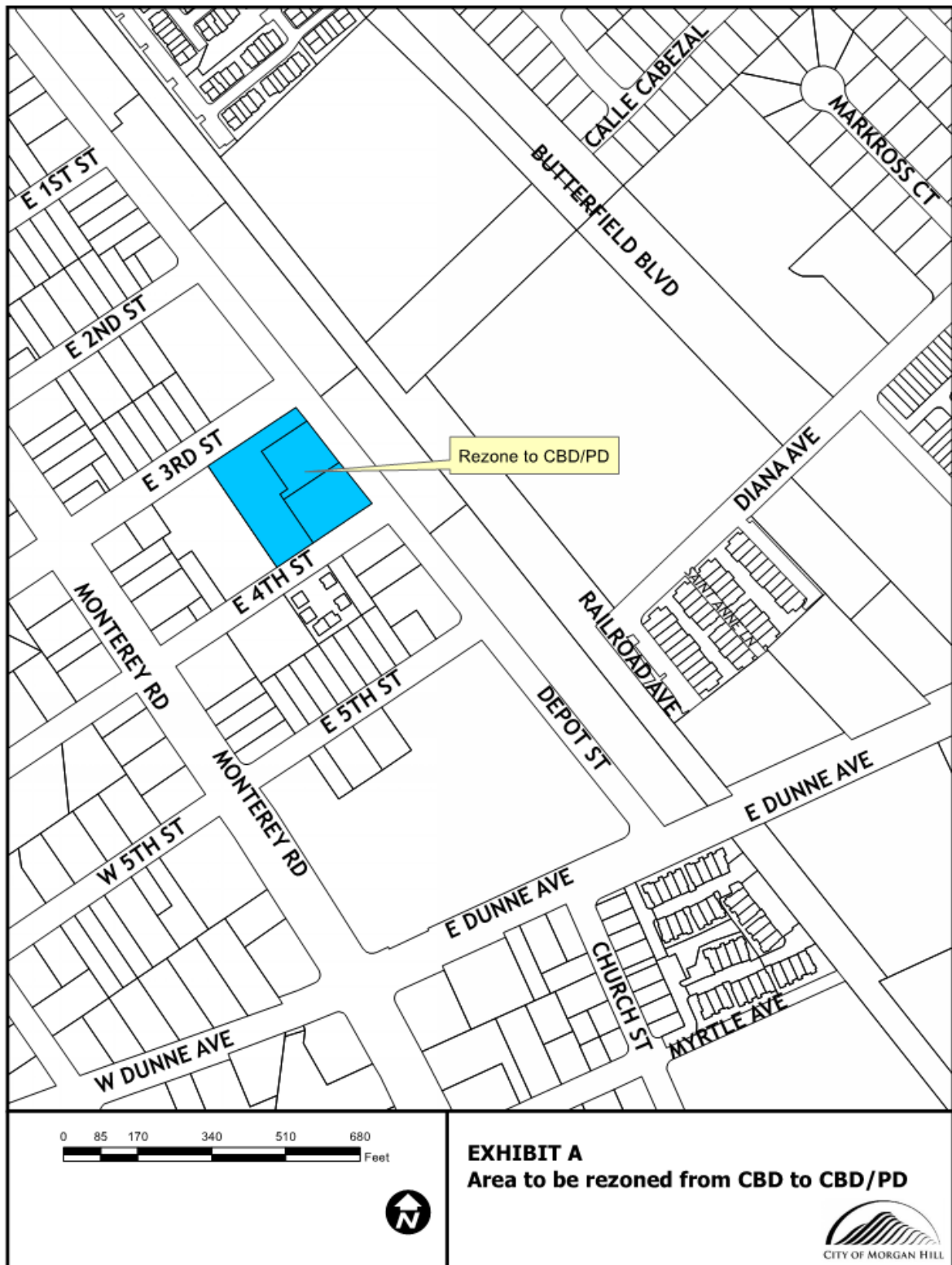
I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2231 New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the 15TH day of February 2017.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Exhibit A



	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	10	6		21	25%	1.5 PER UNIT	31.5
2 Bedroom (Unit 2B)	1248		1	1		2	2%	1.5 PER UNIT	3
2 Bedroom + Loft (Unit 2C)	1342				9	9	12%	1.5 PER UNIT	13.5
2 Bedroom + Loft (Unit 2D)	1460				1	1	1%	2 PER UNIT	2
Total		18	25	24	16	83	100%		119.0
Parking Required:									
Residential	119 Spaces								
Leasing	8 Spaces								
Total:	127 Spaces								
Parking Provided :									
Regular Parking	123								
Accessible Parking	4								
Total Apartment Homes:	83								
PROPERTY INFO:									
LOT SIZE:	71,702 SQ. FT.								
FIRST FLOOR:									
RETAIL	5,859 SQ. FT.								
LEASING	2,000 SQ. FT.								
TOTAL :	7,859 SQ. FT.								
RESIDENTIAL	16,441 SQ. FT.								
RECREATION	2,515 SQ. FT.								
HALL/STAIR/MEP/TRASH	7,157 SQ. FT.								
STORAGE	445 SQ. FT.								
PET SPA	331 SQ. FT.								
BIKE STORAGE/ REPAIR	455 SQ. FT.								
TOTAL CONDITIONED SPACE	35,203 SQ. FT.								
SECOND FLOOR:									
RESIDENTIAL	24,042 SQ. FT.								
GYM	972 SQ. FT.								
MEETING	580 SQ. FT.								
HALL/STAIR/MEP/TRASH	6,809 SQ. FT.								
STORAGE	467 SQ. FT.								
TOTAL CONDITIONED SPACE	32,870 SQ. FT.								
THIRD FLOOR:									
RESIDENTIAL	21,870 SQ. FT.								
UPPER LOUNGE	505 SQ. FT.								
HALL/STAIR/MEP/TRASH	6,603 SQ. FT.								
STORAGE	467 SQ. FT.								
TOTAL CONDITIONED SPACE	29,445 SQ. FT.								
FOURTH FLOOR:									
RESIDENTIAL	18,421 SQ. FT.								
HALL/STAIR/MEP/TRASH	4,588 SQ. FT.								
STORAGE	570 SQ. FT.								
TOTAL CONDITIONED SPACE	23,579 SQ. FT.								
BASEMENT:									
PARKING	45,515 SQ. FT.								
STAIR/ MEP	2,555 SQ. FT.								
STORAGE	569 SQ. FT.								
TOTAL CONDITIONED SPACE	48,639 SQ. FT.								



ARCHITECTURAL SITE PLAN

SUNSWEEET MIXED USE

Morgan Hill, California
A.I.I

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

HMH
LANDSCAPE ARCHITECTURE

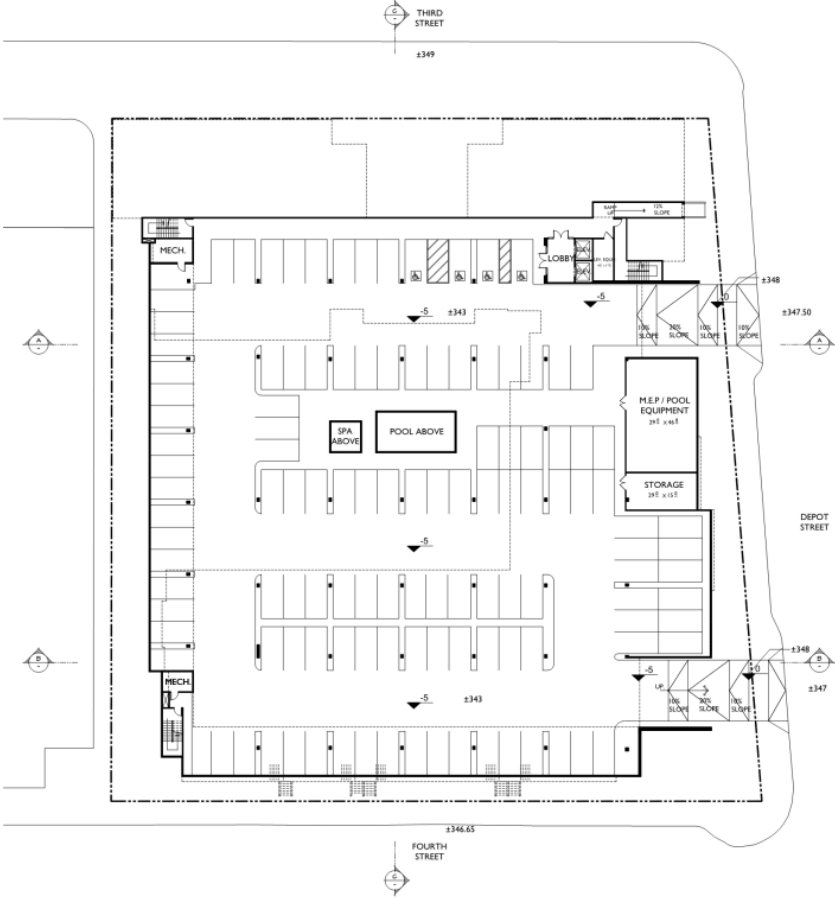
Sunsweet
Morgan Hill LLC

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01.25.17





BASEMENT / GARAGE
120 STALLS W/ 9 X 18 PARKING

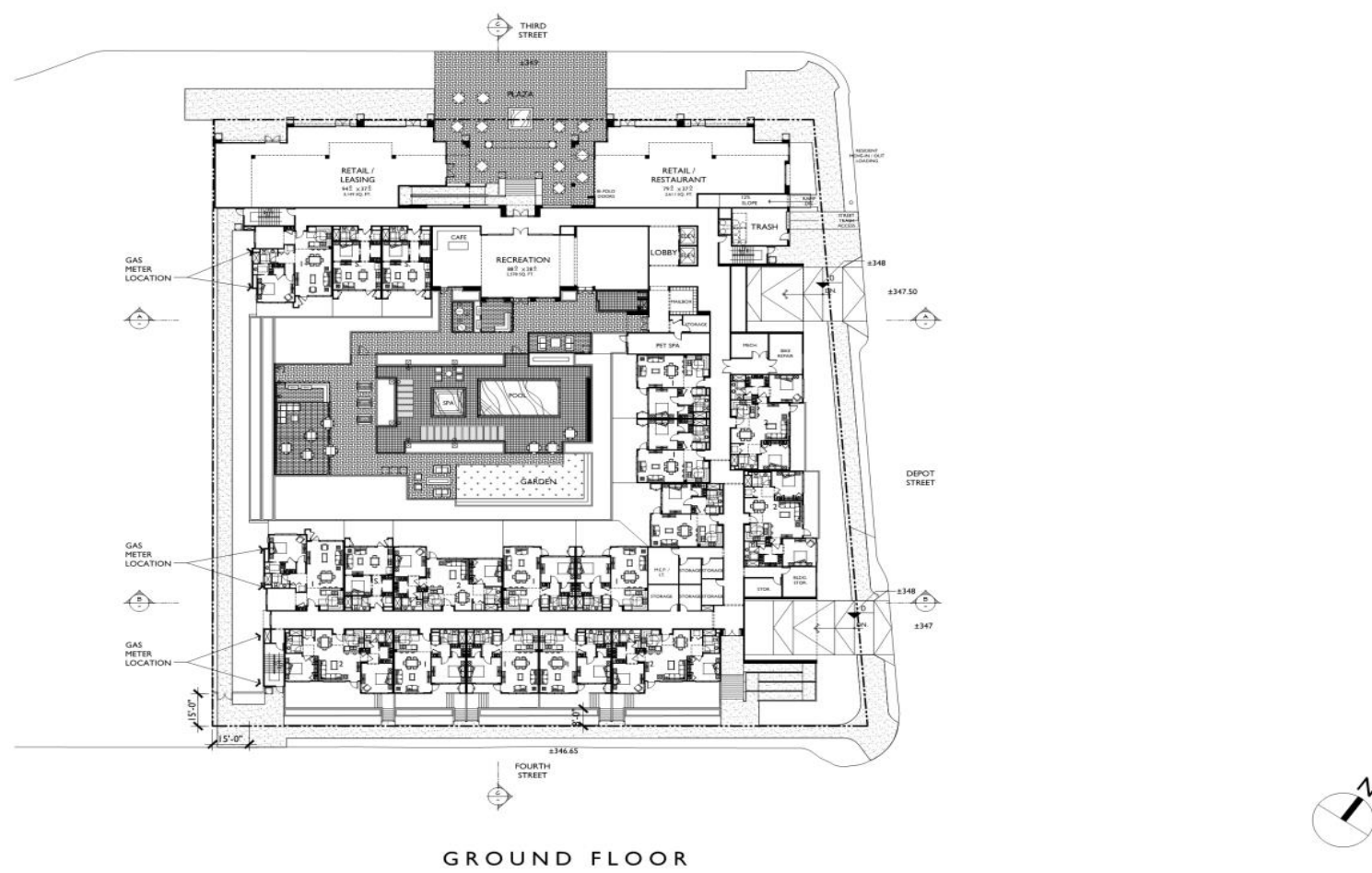
CONCEPTUAL FLOOR PLAN
SUNSWEEET MIXED USE
Morgan Hill, California
A 2.1

MHengineering Co.
18075 Vineyard Blvd, Morgan Hill, CA 95037

HMH
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

12.21.16
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CONCEPTUAL FLOOR PLAN

SUNSWEEET MIXED USE
Morgan Hill, California
A 2.2

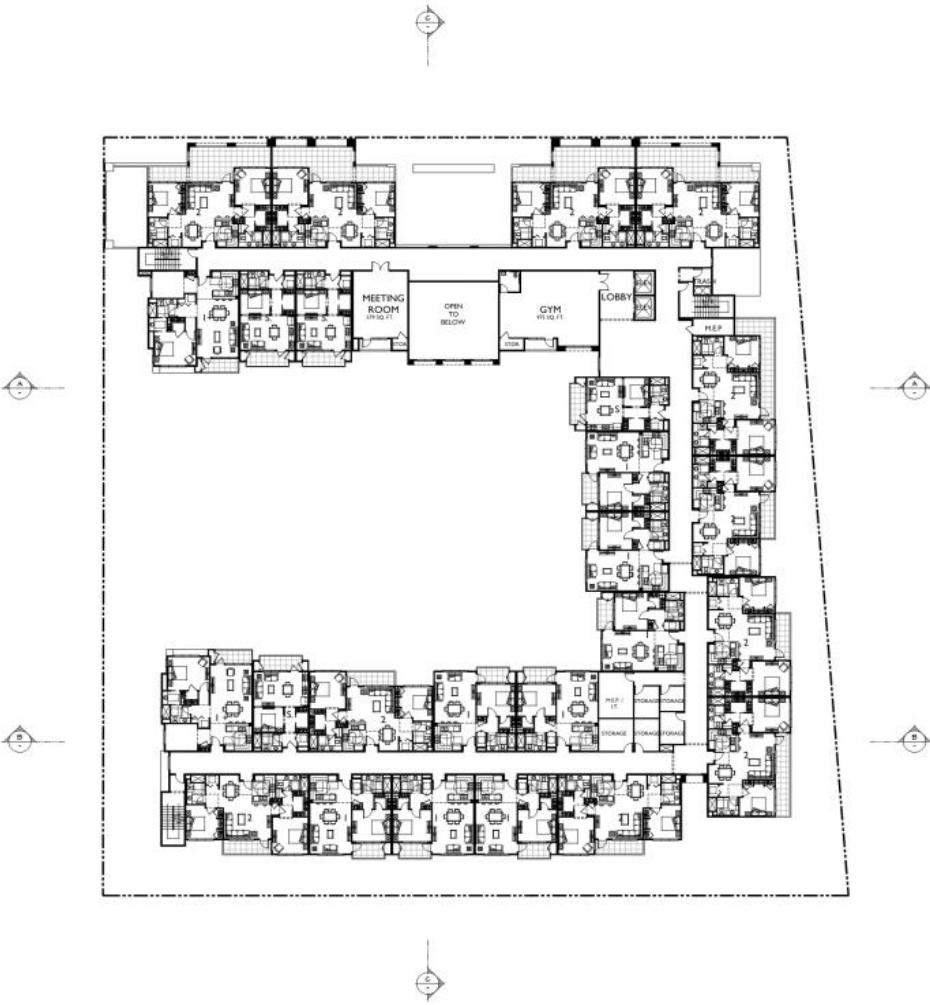
MH engineering Co.
16075 Vineyard Blvd, Morgan Hill, CA 95037

HMH
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

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SECOND FLOOR

CONCEPTUAL FLOOR PLAN

SUNSWEEET MIXED USE

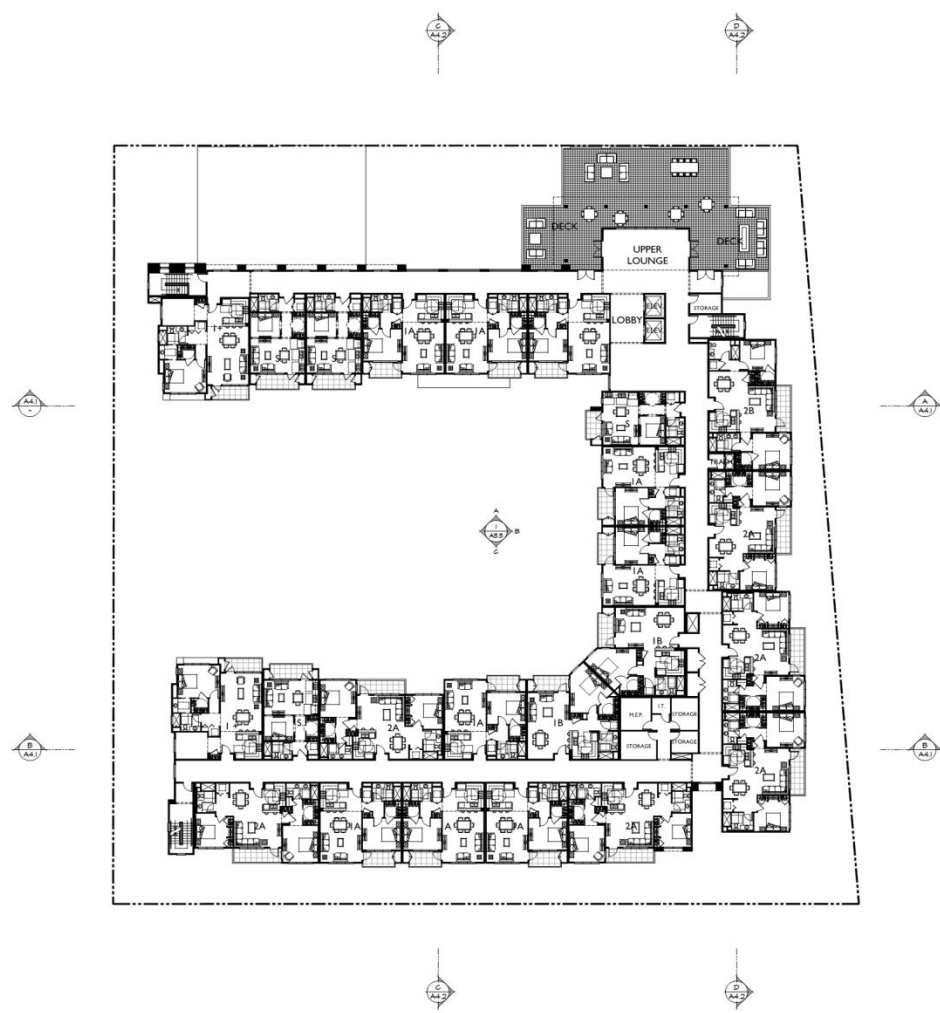
Morgan Hill, California
A 2.3

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

HMM
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

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THIRD FLOOR

CONCEPTUAL FLOOR PLAN

SUNSWEEET MIXED USE

Morgan Hill, California

0 10 20 40

SCALE: 1" = 20'-0"

A 2.4

MHengineering Co.

16075 Vineyard Blvd., Morgan Hill, CA 95037

HMH

LANDSCAPE ARCHITECTURE

Sunsweet

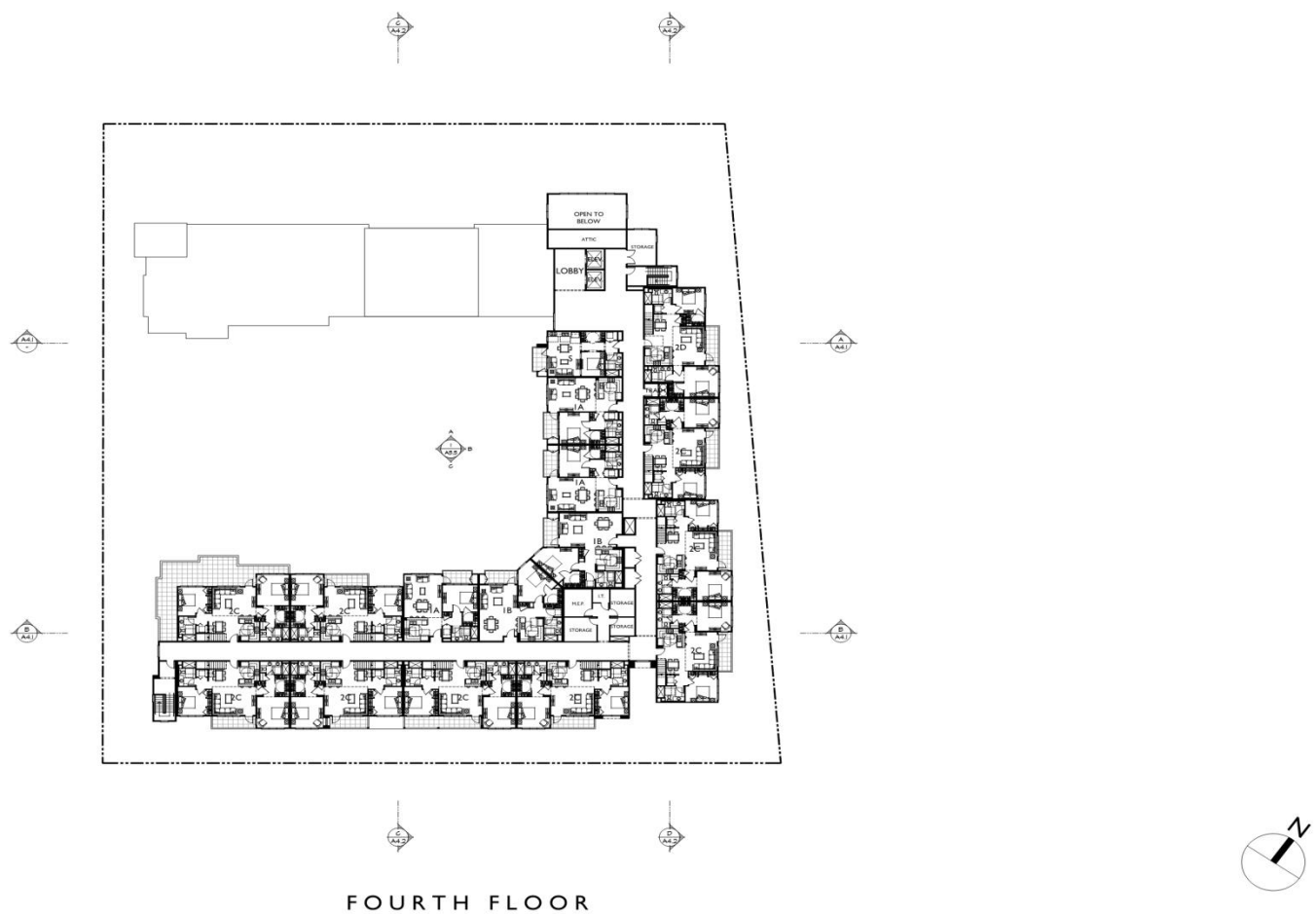
Morgan Hill LLC

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01.25.17



FOURTH FLOOR

CONCEPTUAL FLOOR PLAN
SUNSWEEET MIXED USE

Morgan Hill, California
0 10 20 40
SCALE: 1" = 20'-0"
A 2.5

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

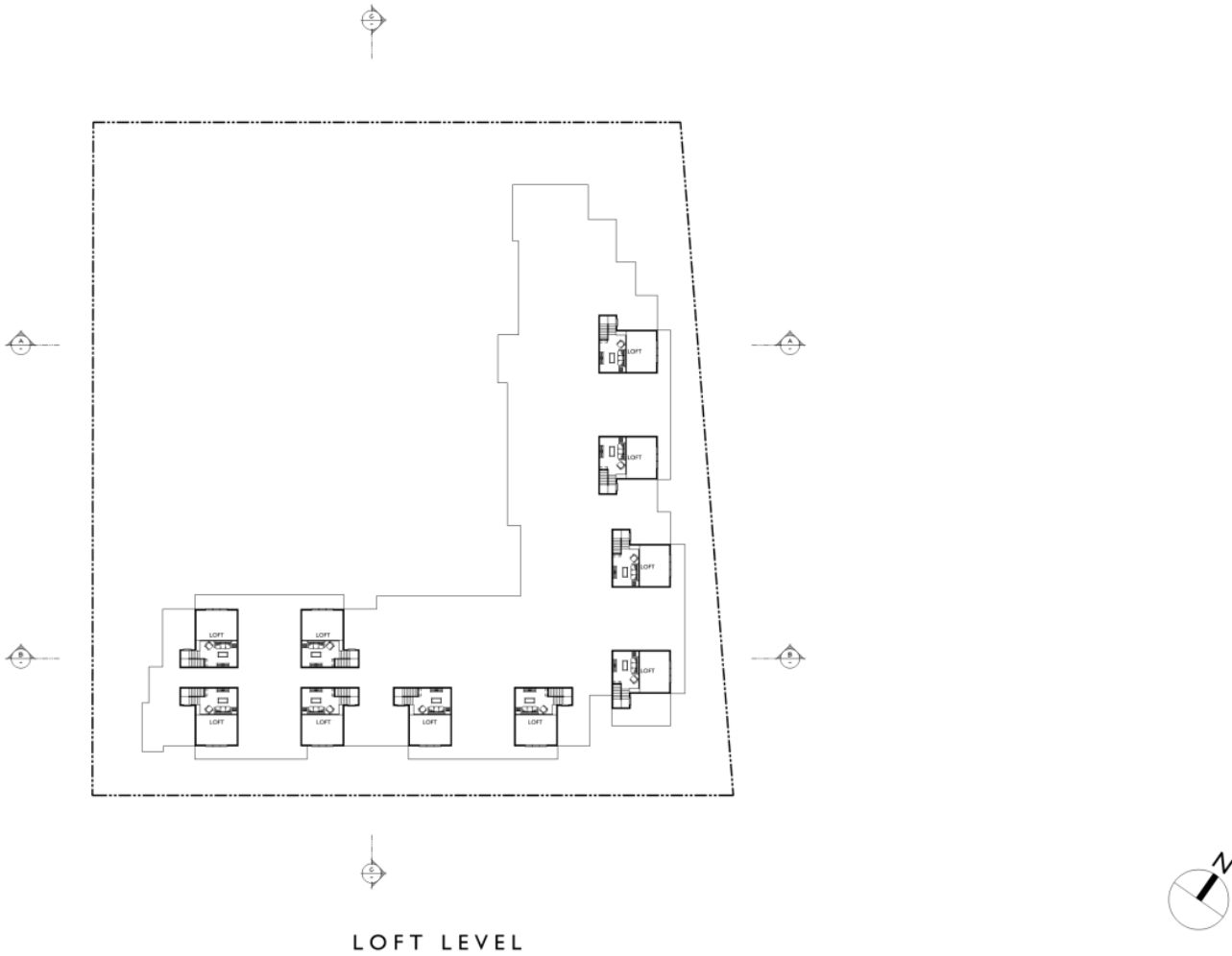
HMH
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

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01.25.17

Exhibit B – Precise Development Plans
Exhibit B – Precise Development Plans



LOFT LEVEL

CONCEPTUAL FLOOR PLAN

SUNSWEET MIXED USE

Morgan Hill, California

A 2.6

MH engineering Co.
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Page 7



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

12.21.16



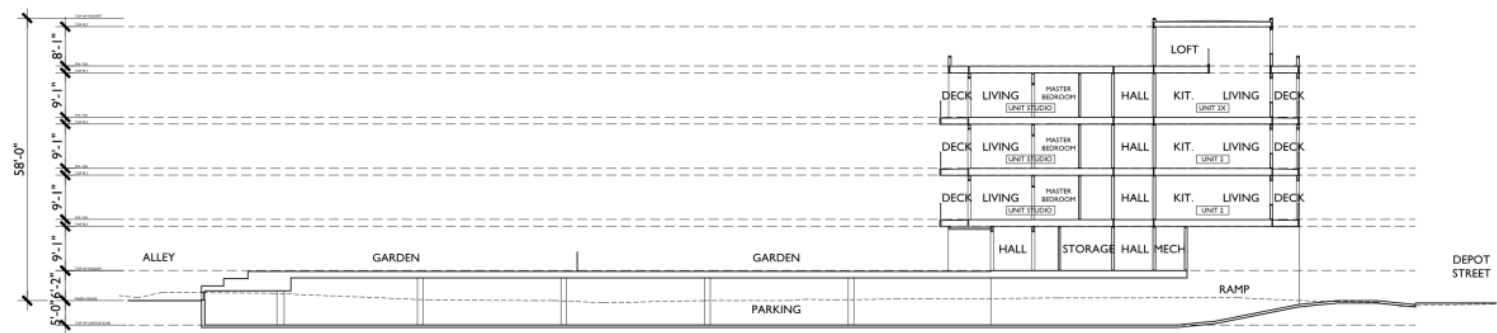
BUILDING I
Elevations
SUNSWEEET MIXED USE
Morgan Hill, California
0 6 12 24 **A 3.2**
SCALE: 3/32" = 1'-0"

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

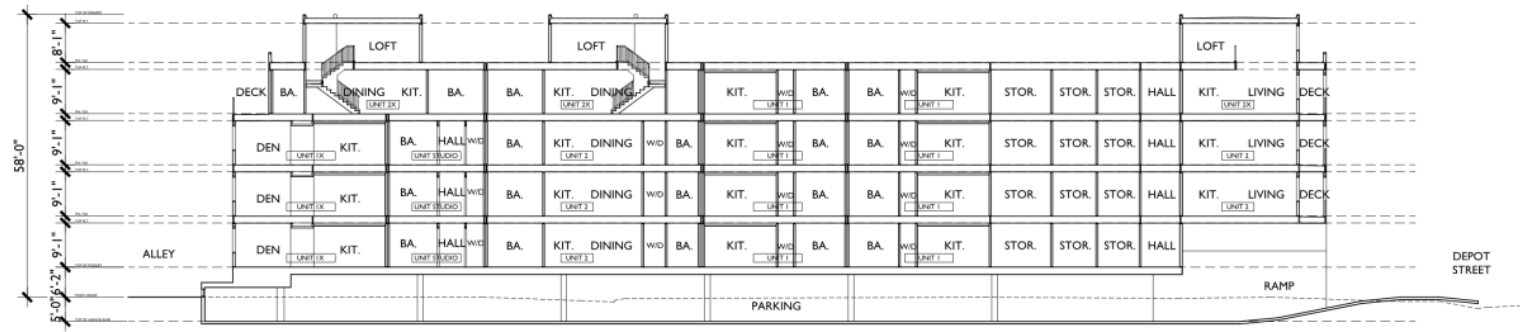
HMH
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

01.25.17
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SECTION A



SECTION B

BUILDING I
Sections
SUNSWEEET MIXED USE

Morgan Hill, California

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

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

HMH
LANDSCAPE ARCHITECTURE

Sunsweet
Morgan Hill LLC

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12.21.16

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Exhibit C -MMRP

MITIGATION MONITORING AND REPORTING PROGRAM

Sunsweet Residential Mixed-Use Development Project **(ZA 2016-0008 and DA 2016-0009: Depot-Sunsweet MH LLC)**



January 2017

PREFACE

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring or Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the MMRP is to ensure compliance with the mitigation measures during project implementation.

The Initial Study concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the Initial Study concluded that the impacts from implementation of the project would be less-than-significant.

MITIGATION MONITORING AND REPORTING PROGRAM SUNSWEEET RESIDENTIAL MIXED-USE DEVELOPMENT PROJECT (ZA 2016-0008 AND DA 2016-0009: DEPOT-SUNSWEEET MH LLC)				
Impact(s)	Mitigation Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
AIR QUALITY				
Impact AQ-1: The proposed project would contribute to the significant unavoidable impact, disclosed in the Downtown Specific Plan MEIR, from the emissions of criteria air pollutants.	MM AQ-1: The Specific Plan shall be amended to require submission of an Air Quality and Transportation Demand Management (AQ-TDM) Plan as part of the Design Permit (Architectural and Site Review) application for review and approval by the Community Development Director. The AQ-TDM Plan will incorporate appropriate measures at appropriate locations as determined through the design permit process, such as the following, to reduce air quality impacts: <ul style="list-style-type: none"> • Provide sidewalks and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas. • Allow only natural gas fireplaces. No wood burning devices would be allowed. • Construct transit amenities such as bus turnouts/bus bulbs, benches, shelters, etc. • Provide direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development. • Provide showers and lockers for employees bicycling or walking to work. MM AQ-2: Private residential parking facilities of 50 spaces or more shall include the following amenities: <ul style="list-style-type: none"> • Electric vehicle charging facilities. • Preferential parking for Low Emission Vehicles 	To be implemented by the applicant and contractors during construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

MITIGATION MONITORING AND REPORTING PROGRAM SUNSWEEP RESIDENTIAL MIXED-USE DEVELOPMENT PROJECT (ZA 2016-0008 AND DA 2016-0009: DEPOT-SUNSWEEP MH LLC)				
Impact(s)	Mitigation Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
Impact AQ-3: Construction emissions from development of the proposed project could result in significant TAC impacts to nearby sensitive receptors.	<p>MM AQ-3.1: Prior to any construction, the project applicant shall prepare an evaluation that predicts Community Risk impacts associated with construction following guidance provided by the BAAQMD. Prior to issuance of demolition and/or building permits, this analysis shall be submitted to the Community Development Director for review and approval. The analysis shall identify any necessary requirements to reduce community risk impacts such that significant impacts (i.e. exceeding the BAAQMD thresholds of significance) would not occur. Requirements to minimize significant impacts would include:</p> <ul style="list-style-type: none"> • Develop a plan to ensure that diesel-powered equipment larger than 50 horsepower and operating on the site for more than two days consecutively shall meet U.S. EPA particulate matter emissions standards for Tier 2, 3 or 4 engines or equivalent; or the construction contractor shall use other measures to minimize construction period diesel particulate matter emissions to reduce the predicted cancer risk below the threshold. Such measures may include the use of alternative-powered equipment (e.g., LPG-powered forklifts), alternative fuels (e.g., biofuels), added exhaust devices, or a combination of measures, provided that these measures are approved by the lead agency; • If necessary, all generators, welders, compressors, and pumps shall be alternatively fueled or meet U.S. EPA particulate matter standards for Tier 4 engines; and • Minimize the number of hours that equipment will operate including the use of idling restrictions. 	To be implemented by the applicant and contractors during construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

MITIGATION MONITORING AND REPORTING PROGRAM SUNSWEEP RESIDENTIAL MIXED-USE DEVELOPMENT PROJECT (ZA 2016-0008 AND DA 2016-0009: DEPOT-SUNSWEEP MH LLC)				
Impact(s)	Mitigation Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
Impact AQ-4: Demolition and construction activities for the proposed project may generate construction-period exhaust and fugitive dust emissions that would temporarily affect local air quality.	<p>MM AQ-4.1: All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day;</p> <p>MM AQ-4.2: All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</p> <p>MM AQ-4.3: 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;</p> <p>MM AQ-4.4: All vehicle speeds on unpaved roads shall be limited to 15 mph.</p> <p>MM AQ-4.5: 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.</p> <p>MM AQ-4.6: Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes. Clear signage shall be provided for construction workers at all access points.</p> <p>MM AQ-4.7: All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p>	To be implemented by the applicant and contractors during construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

MITIGATION MONITORING AND REPORTING PROGRAM SUNSWEEP RESIDENTIAL MIXED-USE DEVELOPMENT PROJECT (ZA 2016-0008 AND DA 2016-0009: DEPOT-SUNSWEEP MH LLC)				
Impact(s)	Mitigation Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	MM AQ-4.8: 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.			
BIOLOGICAL RESOURCES				
The loss of reproductive effort for burrowing owls would result in a significant impact.	<p>SM 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. If owls are observed during the pre-construction survey, no impacts to the owls or their habitat will be allowed during the nesting season (February 1 to August 31).</p> <p>SM 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.</p> <p>SM 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 of the California Department of Fish and Game, in accordance with the Burrowing Owl Mitigation Plan.</p>	To be implemented by qualified biologist prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

MITIGATION MONITORING AND REPORTING PROGRAM SUNSWEEET RESIDENTIAL MIXED-USE DEVELOPMENT PROJECT (ZA 2016-0008 AND DA 2016-0009: DEPOT-SUNSWEEET MH LLC)				
Impact(s)	Mitigation Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
Impact BIO-1: Tree removal, especially of large mature trees, during the January to August nesting season could impact tree-nesting raptors.	<p>MM BIO-1.1: If removal of trees on the project site could be scheduled between September and December (inclusive) to avoid the raptor nesting season, no additional surveys would be required.</p> <p>MM BIO-1.2: If removal of the trees on-site would take place between January and August (inclusive), a pre-construction survey for nesting raptors shall be conducted by a qualified ornithologist to identify active nesting raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist shall, in consultation with the State of California, Department of Fish & Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet) around the nest until the end of the nesting activity. The applicant shall submit a report indicating the result of the pre-construction survey and any designated buffer zones to the satisfaction of the Community Development Director.</p>	To be implemented by qualified biologist prior to issuance of any grading and/or building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency
Removal of significant trees could result in a	SM BIO-4: Prior to the removal of any tree or community of trees on any City or private property in the Specific Plan project area a tree removal permit would be required from the Community Development Director which would			

MITIGATION MONITORING AND REPORTING PROGRAM SUNSWEET RESIDENTIAL MIXED-USE DEVELOPMENT PROJECT (ZA 2016-0008 AND DA 2016-0009: DEPOT-SUNSWEET MH LLC)				
Impact(s)	Mitigation Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
significant impact to the environment.	include a description of the tree replacement program and identify any additional conditions imposed by the City. Alternatively, the City's ordinance section 12.32.070(B) allows the Community Development Director to grant a tree cutting permit where utilization of the property is of greater public value than the environmental degradation caused by the action. Tree removal may also occur without a permit if the removal will take place in accordance with an approved landscape plan. [MHMC 12.32.030, 12.32.040, 12.32.060]			
CULTURAL RESOURCES				
In accordance with the City of Morgan Hill Municipal Code Chapter 18.75, proposals for the development or redevelopment of a site identified as archaeologically sensitive by the City's adopted archaeological sensitivity map shall be subject to the following review process and standard conditions of project approval.	<p>SM CULT-1: Since the site is located within the mapped archaeologically sensitive area as adopted by the City, then the project applicant has the option to either have an archaeological survey be completed for the site to determine what, if any, conditions of approval will be required as mitigation measures; or agree to comply with the following standard conditions of approval, which shall be conclusively deemed to reduce potentially significant impacts on archaeological resources to a less than significant level (no archaeological resources report is required as part of any CEQA review of the project as long as the applicant accepts these conditions and incorporates them into the project):</p> <ul style="list-style-type: none"> An archaeologist shall be present on-site to monitor all ground-disturbing activities. Where historical or archaeological artifacts are found, work in areas where remains or artifacts are found will be restricted or stopped until proper protocols are met, as described below: <ul style="list-style-type: none"> Work at the location of the find will halt immediately within thirty feet of the find. If an archaeologist is not present at the time of the 	To be implemented by the applicant and contractors prior to or during construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

**MITIGATION MONITORING AND REPORTING PROGRAM
SUNSWEEET RESIDENTIAL MIXED-USE DEVELOPMENT PROJECT
(ZA 2016-0008 AND DA 2016-0009: DEPOT-SUNSWEEET MH LLC)**

Impact(s)	Mitigation Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>discovery, the applicant shall contact an archaeologist for evaluation of the find to determine whether it qualifies as a unique archaeological resource as defined by this chapter;</p> <ul style="list-style-type: none"> ○ If the find is determined not to be a Unique Archaeological Resource, construction can continue. The archaeologist will prepare a brief informal memo/letter that describes and assesses the significance of the resource, including a discussion of the methods used to determine significance for the find; ○ If the find appears significant and to qualify as a unique archaeological resource, the archaeologist will determine if the resource can be avoided and will detail avoidance procedures in a formal memo/letter; and ○ If the resource cannot be avoided, the archaeologist shall develop within forty-eight hours an action plan to avoid or minimize impacts. The field crew shall not proceed until the action plan is approved by the community development director. The action plan shall be in conformance with California Public Resources Code 21083.2. <p>SM CULT-2: All development projects located within an archaeological sensitivity area and/or containing known archaeological resources on-site shall also be subject to the following measures as standard conditions of project approval:</p> <ul style="list-style-type: none"> • This project may adversely impact undocumented human remains or unintentionally discover significant historic or archaeological materials. The following policies and procedures for treatment and 			

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	<p>disposition of inadvertently discovered human remains or archaeological materials shall apply. If human remains are discovered, it is probable they are the remains of Native Americans.</p> <ul style="list-style-type: none"> ○ If human remains are encountered they shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need to know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld. ○ Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled. ○ Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains. <ul style="list-style-type: none"> ● In the event that known or suspected Native American remains are encountered or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials, and historic structure remains such as stone-lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the exclusion zone as defined below. 			

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	<ul style="list-style-type: none"> An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the Monitoring Archaeologist (typically 25-50ft for single burial or archaeological find). The exclusion zone shall be secured (e.g., 24 hour surveillance) as directed by the City or County if considered prudent to avoid further disturbances. The Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition: <ul style="list-style-type: none"> The City of Morgan Hill Community Development Director The Contractor’s Point(s) of Contact The Coroner of the County of Santa Clara (if human remains found) The Native American Heritage Commission (NAHC) in Sacramento The Amah Mutsun Tribal Band The Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American the Coroner has 24 hours to notify the NAHC. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) from the Amah Mutsun Tribal 			

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	<p>Band. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)</p> <ul style="list-style-type: none"> • Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose. • Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's community development director the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the Amah Mutsun Tribal Band may be considered and carried out. • If the MLD recommendation is rejected by the City of Morgan Hill the parties will attempt to mediate the disagreement with the NAHC. If mediation fails then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance. 			
GEOLOGY AND SOILS				
In accordance with the City of Morgan Hill standards, the project shall implement the following measures to reduce and/or avoid soil hazards.	SM GEO-1: To avoid or minimize potential damage from seismic shaking, the proposed residential mixed-use development shall be built using standard engineering and seismic safety design techniques. Prior to issuance of development permits, building design and construction at the site shall be completed in conformance with the recommendations of a design-level geotechnical investigation, which will be included in a report to the City. The structural designs for the proposed development will account for repeatable horizontal ground accelerations. The report shall be reviewed and approved by	To be implemented by the applicant and contractors prior to the issuance of a grading permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents,	Director of the City's Community Development Agency

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	the City of Morgan Hill Building Division prior to issuance of a building permit. The buildings will be required to meet the requirements of applicable Building and Fire Codes, including the 2013 California Building Code Chapter 16, Section 1613, as adopted or updated by the City. The project will be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property to the extent feasible and in compliance with the Building Code.		contracts, and project plans prior to issuance of permits.	
Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.	<p>Standard Condition (SC GEO-1), Storm Drain System: 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.</p> <ol style="list-style-type: none"> 1. Storm drain calculations to determine detention 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. <p>Standard Condition (SC GEO-2), Storm Drain System: As required by the State Water Resources Control Board (SWRCB) Order No. 99-08-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</p>	To be implemented by the applicant and contractors prior to approval of grading permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency and Public Works Department.

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	General Permit, owners must file a complete Notice of Intent (NOI) package and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with Section A, B, and C of the General Permit prior to the commencement of soil disturbing activities. A NOI Receipt Letter assigning a Waste Discharger Identification (WDID) number to the construction site will be issued after the SWRCB receives a complete NOI package (original signed NOI application, vicinity map, and permit fee); copies of the NOI Receipt Letter and SWPPP shall be forwarded to the Building and Public Works Department review. SWPPP shall be made a part of the improvement plans. (SWRCB NPDES General Permit CA000002)			
GREENHOUSE GAS EMISSIONS				
Impact AQ-1: GHG emissions from the proposed project could result in a significant impact if appropriate mitigation measures are not implemented to reduce emissions.	MM AQ-2.1: Applicable mitigation measures to reduce GHG emissions that would be implemented for the proposed project include. <ul style="list-style-type: none"> • Provide secure and conveniently placed bicycle parking and storage facilities at parks and other facilities. • Allow only natural gas fireplaces. No wood burning devices would be allowed. • Provide direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development. • Provide transit information kiosks and bicycle parking at commercial facilities. • Provide secure and conveniently located bicycle parking and storage for workers and patrons. 	To be implemented by the applicant post- construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency
Avoidance measures	AM ENER-1.1: In accordance with the provisions of Morgan Hill Municipal	To be implemented	All measures will be	Director of the

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and standard measures (to reduce energy use) that were outlined in the Downtown Specific Plan MEIR will be implemented for the proposed project.	<p>Code Chapter 18.78.28, development should be required to meet a minimum point standard for energy conservation (i.e. GreenPoint Rated, LEED). Development proposed under the proposed project should provide for energy conservation through the use of energy-efficient building techniques, materials, and appliances, such that the buildings consume less energy than allowed by California's Title 24 Building Energy Efficiency Standards, which could be documented in the energy compliance reports submitted at the time of application for building permits.</p> <p>AM ENER-1.2: Development and demolition activities proposed under the proposed project shall have a waste management plan for recycling of construction and demolition materials in place and operating from project inception. Prior to the issuance of building permits, the City will review the plan. The plan would be completed to the satisfaction of the Community Development Director, Building Official, or Environmental Coordinator.</p> <p>AM ENER-1.3: Development proposed under the proposed project shall recycle or salvage a minimum of 50 percent (by weight) of construction, demolition, and land clearing waste. The projected quantities of waste generated during demolition and construction, how much of those materials would be reused, recycled, or otherwise diverted from landfills, and where unrecycled materials would be disposed of should be included in the waste management plan prepared for proposed development. Upon completion, the project applicant shall provide the City with a report summarizing the waste type, quantity, disposition (e.g., recycled or landfilled) and facility used, to document execution of the plan.</p>	by the applicant during construction or prior to the issuance of a grading/building permit.	required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	City's Community Development Agency

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	<p>AM ENER-1.4: The proposed project shall, to the extent feasible, incorporate principles of passive solar design to the satisfaction of the Community Development Director. Passive solar design is the technology of heating, cooling, and lighting a building naturally with sunlight rather than with mechanical systems because the building itself is the system. Basic design principles include large south-facing windows with proper overhangs, as well as tile, brick, or other thermal mass material used in flooring or walls to store the sun's heat during the day and release it back into the building at night or when the temperature drops. Passive solar also takes advantage of energy efficient materials, improved insulation, airtight construction, natural landscaping, and proper building orientation to take advantage of the sun, shade, and wind. Prior to issuance of building permits, the approved plans should demonstrate how and where these principles are incorporated to the satisfaction of the Community Development Director.</p> <p>AM ENER-1.5: The idling of construction vehicles shall be avoided to reduce fuel consumption, emissions, and noise.</p> <p>AM ENER-1.6: The proposed project, to the extent feasible, incorporate standards for cool roofs outlined in Build It Green's (BIG) Greenpoint rating system for residential development and the LEED rating system for commercial development.</p> <p>AM ENER-1.7: The proposed project shall be constructed to meet the requirements of the U.S. Green Building Council's Leadership in Energy and Design (LEED) for new commercial development and Build It Green's (BIG) Greenpoint rating system for new residential development. In particular, the</p>			

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	<p>development shall meet the minimum points required in the energy category of both checklists.</p> <p>AM ENER-1.8: The proposed project shall, to the extent feasible, include photovoltaic (i.e., solar electric) systems on rooftops. An average-sized residential system (2.5 kW) in California produces in excess of 4,000 kWh annually, which equates to 62 percent of the average electricity demand per residential unit. Commercial systems are generally larger than residential systems and produce commensurately more electricity. (Each square foot of photovoltaic cells produces approximately 10 watts of power in bright sunlight.)</p> <p>AM ENER-1.9: The proposed project shall incorporate solar hot water heating systems, to the extent feasible, to reduce energy use.</p>			
HAZARDS AND HAZARDOUS MATERIALS				
Impact HAZ-1: Improper handling or disposal of hazardous materials or wastes on-site could result in a significant impact to construction workers at the project site.	MM HAZ 1.1: If any basements, buried foundations, reservoir, USTs, or buried debris are discovered during construction, a Soil Engineer must be notified and the specific condition appropriately remedied in accordance with the local, county, and state and RWQCB (for USTs) requirements. A Site Management Plan shall be prepared to establish appropriate management practices for handling these materials/structures, in the event that they are encountered.	To be implemented by the applicant prior to construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

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Due to the age of the structures, it is possible that ACMs and lead-based paint exist on the project site.	<p>SM HM-1: As appropriate, a lead survey of painted surfaces and soil around buildings on parcels proposed for redevelopment shall be performed prior to demolition. Requirements outlined by Cal/OSHA Lead in Construction Standard, Title 8, CCR 1532.1 would be followed during demolition activities, including employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.</p> <p>SM HM-2: All potentially friable ACMs shall be removed in accordance with the NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities shall be undertaken in accordance with OSHA standards contained in Title 8 of the CCR, Section 1529, to protect workers from exposure to asbestos. Specific measures could include air monitoring during demolition and the use of vacuum extraction for asbestos-containing materials.</p> <p>SM HM-3: A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.</p> <p>SM HM-4: Materials containing more than one (1) percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one (1) percent asbestos shall be completed in accordance with BAAQMD requirements.</p>	To be implemented by the applicant prior to demolition and construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

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HYDROLOGY AND WATER QUALITY				
The proposed project would increase impervious surfaces on the project site which may increase stormwater runoff when the site develops.	<p>SM HYDRO-1: In accordance with Morgan Hill Municipal Code Chapter 17.32, Improvement and Improvement Agreements, a complete storm drainage study of the proposed development must be submitted showing amount of runoff, 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.</p> <p>SM HYDRO-2: In accordance with Morgan Hill Municipal Code Chapter 17.32, Improvement and Improvement Agreements, the applicant of development proposed under the Specific Plan shall cause the design and construction to be undertaken for a storm drainage collection system shown on the tentative map or site development plan. All storm drain improvements shall be constructed to the satisfaction of the Director of Public Works.</p> <p>SM HYDRO-3: In accordance with Morgan Hill Municipal Code Chapter 17.32, Improvements and Improvement Agreements, proposed collection system in the project area shall be designed to be capable of handling runoff without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity; whereas, on-site retention facilities shall be designed to a 100-year storm capacity. Off-site detention and retention facilities may also be proposed, and are subject to the approval of the Director of Public Works. Items of construction shall include, but not be limited to installation of storm line extensions and surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals.</p>	To be implemented by the applicant prior to and during construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

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	SM HYDRO-4: The project applicant will be required to pay the City of Morgan Hill Storm Drainage Impact fee in accordance with Chapter 3.56 of the Morgan Hill Municipal Code. The fees established by this chapter are based on the costs required for new facilities and other capital acquisition costs to serve new development.			
Construction activities temporarily increase the amount of debris on-site and grading activities, which could increase pollutant loads of eroded material in stormwater runoff.	SM HYD 7A: Implementation of the following Pre-Construction Measures will reduce construction-related water quality impacts to a less than significant level: <ul style="list-style-type: none"> • Burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains. • Earthmoving or other dust-producing activities will be suspended during periods of high winds. • All exposed or disturbed soil surfaces will be watered at least twice daily to control dust as necessary. • Stockpiles of soil or other materials that can be blown by the wind will be watered or covered. • All trucks hauling soil, sand, and other loose materials will be covered and all trucks will be required to maintain at least two feet of freeboard. • All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites will be swept daily (with water sweepers). • Vegetation in disturbed areas will be replanted as quickly as possible. 	To be implemented by the applicant prior to construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

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Runoff from the project site after development may contain oil and grease from parked vehicles, as well as sediment and chemicals (i.e., fertilizers, pesticides, etc.) from the landscaped areas or new roof areas.	<p>SM HYDRO-7: 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.</p> <ul style="list-style-type: none"> Storm drain calculations to determine detention pond sizing and operations. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control. <p>SM HYDRO-8: As required by the State Water Resources Control Board (SWRCB) Order No. 99-08-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) package and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with Section A, B, and C of the General Permit prior to the commencement of soil disturbing activities. A NOI Receipt Letter assigning a Waste Discharger Identification (WDID) number to the construction site will be issued after the SWRCB receives a complete NOI package (original signed NOI application, vicinity map, and permit fee); copies of the NOI Receipt Letter and SWPPP shall be forwarded to the Building and Public Works Department review. SWPPP shall be made a part of the improvement plans.</p>	To be implemented by the applicant prior to issuance of a grading permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

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The proposed development would be within the 100-year floodplain of West Little Llagas Creek and subject to flooding during the lifetime of building.	<p>SM HYDRO-5: Development of the project site shall comply with Morgan Hill Municipal Code Chapter 18.42, the Flood Damage Prevention Ordinance, which requires new residential construction to elevate habitable spaces one foot above anticipated flood levels, non-residential construction to be flood-proofed, and subgrade floors to withstand hydrostatic flood forces.</p> <p>SM HYDRO-6: Development proposed on the project site would prepare and submit a Storm Drainage Study to the Director of Public Works for review and approval. The study would include calculations to determine detention and operations and demonstrate how the runoff rate from the proposed development would be less than or equal to existing conditions, or how off-site facilities would be used.</p>	To be implemented by the applicant prior to issuance of a grading permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency
NOISE				
Residences near the project site could be subject to construction noise levels in excess of 60 dBA Leq and the ambient noise environment by five dBA Leq for durations exceeding one construction season.	<p>SM NOI-1: Construction activities shall be limited to the hours between 7:00 a.m. and 8:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays. No construction activities should occur on Sundays or federal holidays (Consistent with Section 8.28.040 of the Morgan Hill Municipal Code).</p> <p>SM NOI-2: Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</p> <p>SM NOI-3: Locate stationary noise generating equipment (e.g. rock crushers, compressors) as far as possible from adjacent residential receptors.</p>	To be implemented by applicant and contractors during construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency Building Division

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	<p>SM NOI-4: Acoustically shield stationary equipment located near residential receptors with temporary noise barriers or recycled demolition materials.</p> <p>SM NOI-5: Utilize "quiet" air compressors and other stationary noise sources where technology exists.</p> <p>SM NOI-6: The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.</p> <p>SM NOI-7: Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.</p>			
<p>Impact NOI-1: Use of construction equipment that generate high vibration levels could result in a significant impact to structures near the site.</p>	<p>MM NOI-1.1: Prior to construction, a list of all heavy construction equipment to be used for this project and the anticipated time duration of using equipment that has been known to produce high vibration levels (tracked vehicles, vibratory compaction, pile drivers, jackhammers, hoe rams, etc.) shall be submitted by the applicant to the City of Morgan Hill. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.</p>	To be implemented by applicant and contractors prior to construction.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and	Director of the City's Community Development Agency Building Division

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	<p>MM NOI-1.2: A construction vibration monitoring plan shall be implemented to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:</p> <ul style="list-style-type: none"> • Identification of the sensitivity of nearby structures to groundborne vibration. Vibration limits should be applied to all vibration-sensitive structures located within 200 feet of the project. • Performance of a photo survey, elevation survey, and crack monitoring survey for each structure within 50 feet of construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular interval during construction, and after project completion. The surveys shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls, and other structural elements in the interior and exterior of said structures. • Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies would be identified for when vibration levels approached the limits. • At a minimum, vibration monitoring should be conducted during 		project plans prior to issuance of permits.	

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	<p>pavement demolition and excavation. Monitoring results may indicate the need for more or less intensive measurements.</p> <ul style="list-style-type: none"> • If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures. • Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site. • Conduct post-surveys on structures where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. <p>MM NOI-1.3: The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper documentation supporting any such claims.</p>			
<p>Impact NOI-2: New residents of the proposed development would be exposed to exterior noise levels</p>	<p>MM NOI-2.1: When refining the project's site plan, continue to shield common outdoor spaces with buildings whenever possible. The design level noise goal shall be 60 dBA Ldn or less for traffic noise and 70 dBA Ldn or less for railroad train noise in outdoor use areas where there would be frequent human use and quiet would be of benefit.</p>	<p>To be implemented by applicant and contractors prior to the issuance of a building permit.</p>	<p>All measures will be required as part of the development permit. All measures will be printed on all</p>	<p>Director of the City's Community Development Agency</p>

MITIGATION MONITORING AND REPORTING PROGRAM SUNSWEEET RESIDENTIAL MIXED-USE DEVELOPMENT PROJECT (ZA 2016-0008 AND DA 2016-0009: DEPOT-SUNSWEEET MH LLC)				
Impact(s)	Mitigation Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p>exceeding 60 DBA Ldn from traffic noise and 70 DBA Ldn from railroad noise. Exterior noise levels exceeding the acceptable General Plan standards would result in significant impacts to outdoor spaces in the new residential mixed-use development.</p>	<p>MM NOI-2.2: A design-level acoustical analysis shall be required to confirm that the design of residential units is sufficient to reduce interior average noise levels to 45 dBA Ldn or lower, and to reduce interior maximum instantaneous noise levels to 50 dBA Lmax or less in bedrooms, and 55 dBA Lmax in all other habitable rooms. As part of the design-level acoustical analysis, a qualified acoustical consultant shall review final site plans, building elevations, and floor plans prior to construction to calculate expected interior noise levels to determine what, if any, additional noise insulation treatments are necessary. Special building construction techniques (e.g., sound-rated windows and building facade treatments) would be required. These treatments include, but are not limited to, sound-rated windows and doors, sound-rated wall construction, acoustical caulking, insulation, and acoustical vents. Large windows and doors shall be oriented away from the railroad where possible. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit.</p> <p>MM NOI-2.3: A suitable form of forced-air mechanical ventilation, as determined by the local building official, shall be provided to units throughout the site, so that windows could be kept closed at the occupant's discretion to control interior noise.</p>		<p>construction documents, contracts, and project plans prior to issuance of permits.</p>	
PUBLIC SERVICES				
<p>Consistent with the conclusions in the Downtown Specific Plan MEIR, the</p>	<p>SM PS-2: State Law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect on the adequacy of school facilities is payment of a school impact fee prior to issuance of a building permit. The school impact fees implementation of measures specified in</p>	<p>To be implemented by applicant prior to the issuance of a building permit.</p>	<p>All measures will be required as part of the development permit. All</p>	<p>Director of the City's Community Development Agency</p>

MITIGATION MONITORING AND REPORTING PROGRAM SUNSWEEET RESIDENTIAL MIXED-USE DEVELOPMENT PROJECT (ZA 2016-0008 AND DA 2016-0009: DEPOT-SUNSWEEET MH LLC)				
Impact(s)	Mitigation Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
proposed residential mixed-use development would increase demand on local schools.	Government Code 65996 would be used to offset project-related increases in student enrollment. Residential development proposed under the Specific Plan would be required to comply with the school impact fee requirements of the Morgan Hill Unified School District.		measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	
TRANSPORTATION/TRAFFIC				
Impact TRANS-2: Under 2030 conditions, the Downtown Specific Plan would degrade LOS C intersection operations at Depot Street/Main Avenue during the PM peak hours and would meet the peak hour signal warrant criteria. The proposed mixed use residential development will contribute to this impact.	MM TRANS-2.1: The project applicant will pay traffic impact fees to contribute to the installation of a traffic signal at the Depot Street/Main Avenue intersection.	To be implemented by applicant prior to the issuance of a building permit.	All measures will be required as part of the development permit. All measures will be printed on all construction documents, contracts, and project plans prior to issuance of permits.	Director of the City's Community Development Agency

EXHIBIT D---Other Required Conditions:

The following conditions shall apply to the project:

1. Design permit approval shall be completed prior to submittal of the building plans to the Building Division.
2. Prior the issuance of a grading permit or building permit, improvement plans shall be reviewed and approved by the Public Works Director.
3. The project shall include a minimum of two locations for Wi-Fi repeater antennas. All related access easements and maintenance agreement shall be approved and recorded prior to the issuance of a certificate of occupancy.
4. A minimum of 2 EV charging stations shall be included within the parking garage for use by the project residents.
4. All retention/detention/LID facilities (underground tanks) shall be privately maintained by the HOA/owner.
5. Project is in a FEMA special flood hazard area (SFHA) flood zone AE. First level finished floors shall be elevated 1 foot above the base flood elevation (BFE) as determined by the flood study.
6. Project shall file for a FEMA Letter of Map Revision based on fill (LOMR-F),
7. Prior to any grading activity below the base flood elevation, the FEMA LOMR-F shall be issued by FEMA. All perimeter grades along the property boundary shall be maintained above the BFE.
8. Driveway approaches along Depot Street shall be standard residential driveway approaches.
9. Install new curb and gutter along 4th street frontage.
10. Provide 2" AC grind and overlay to the center line of street along 4th Street.
11. The below grade parking shall have a drainage system with positive drainage to the City storm drain main lines **via gravity flow as the primary method of drainage.**
12. In case of flooding at the below grade parking due to water leaks and/or clogged storm drain lateral, a storm drain pump system shall be installed as a secondary/emergency method of drainage.
13. Each commercial unit shall have a separate water service with appropriate back flow device.
14. Each commercial unit shall have a separate sanitary service with appropriate grease trap.
15. All fire service lines shall have the appropriate double detector check valve.
16. Fire department connections shall be located within 40 feet of a fire hydrant or within an acceptable distance to be determined by the Fire Division.
17. Elevators shall be designed to meet all applicable FEMA requirements for construction in a flood zone.
18. Trash enclosure areas must meet the following Structural or Treatment Control BMP requirements:
 - i. Roof Required: Trash enclosure areas shall have an all weather noncombustible solid roof to prevent rainwater from mixing with the enclosure's contents
 - i. Walls Required: Trash enclosure shall have structural walls to prevent unauthorized off-site transport of trash.

- ii. Doors: Trash enclosure shall have door(s) which can be secured when closed.
 - iii. 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.
 - iv. Sanitary 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.
19. A soils report shall determined the required mitigation measures needed to allow excavation of soils below the finished grade adjacent to the existing parking garage. Soil report shall be submitted to Building and Engineering Division for review and approval.
20. A percolation test shall be performed at the location and depth of where the infiltration stormdrain tanks will be placed, to determine the infiltration feasibility of the site.
21. Project's structural height shall encumber the City's existing WiFi communication system. Enter into an agreement with the City for City to install a City antenna for WiFi communications on the roof of the structure. The exact location shall be determined and approved by Planning, Public Works, and owner.
22. Obtain an encroachment permit from the Public Works Department prior to commencement of any work in the City's right-of-way or in connection with the City's utility system.
23. Public Works impact fees are required for this project and must be paid prior to occupancy of each unit.

I. 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 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, 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)**

II. 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. 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)**

III. 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)**

IV. 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.
 - 3. Storm drain calculations to determine detention/retention pond sizing and operations.
 - 4. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
 - 5. 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:

3. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP)**.
4. SWPPP Inspections shall occur weekly during the rainy season (September 15th thru May 1st).
5. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
6. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.
7. 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.
8. Prior to rain events, BMPs not in compliance will need to be corrected immediately.
9. 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.
10. Other non-compliance issues need to be addressed within a 24 hour period.
11. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow up inspection.

G. Current Federal Emergency Management Agency Flood Insurance Maps show the site is located in:

- ☒ In all other zones (AE, AH, A99, V, VE), the lowest floor shall be elevated at least one foot above the base flood elevation.
(**MHMC 18.42.160 C; CMH Design Standards and Standard Details for Construction**)

V. 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 unit. These are to be installed by developer. **(MHMC 17.32.020 D)**

VI. 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 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)**
- 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 Homeowner's Association/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:
 - 3. Civil Engineer of record.
 - 4. Geotechnical Engineer of record.
 - 5. Third Party QSD/QSP SWPPP Inspector.
 - 6. General Contractor.
 - 7. Sub Contractors.

NPDES WATER QUALITY DIVISION
STORMWATER MANAGEMENT DEVELOPMENT STANDARDS
FOR POST CONSTRUCTION

1. State Water Resources Control Board Post Construction Requirements (PCRs):
Project shall comply with the California Regional Water Quality Control Board Central Coast Region Resolution No. R3-2013-0032 as documented by the **Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements** (developed from Resolution No. R-2013-0032 Attachment 1 and 2 at:
http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hydromod_charette_index.shtml). A copy of the guidance manual can be obtained through the Department of Public Works internet site.
 - a. Project shall provide Stormwater Control Plan Checklist and applicable calculations per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements.
 - b. Project shall meet the applicable requirements of the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements:
 - i. Performance Requirement 1: Site Design and Runoff Reduction
 - ii. Performance Requirement 2: Water Quality Treatment
 - iii. Performance Requirement 3: Runoff Retention
 - iv. Performance Requirement 4: Peak Management
 - c. **Submit/re-submit site review plans (SR) to include requirements of item “a” and “b” above.**
2. Design Standards Applicable to All Categories.
 - a. **Peak Storm Water Runoff Discharge Rates** - Post-development peak storm water runoff discharge rates shall not exceed the estimated pre development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre development flows.
 - b. **Minimize Storm Water Pollutants of Concern** - Storm water runoff from a site has the potential to contribute oil and grease, suspended solids, metals, gasoline, pesticides, and pathogens to the storm water conveyance system. The development must be designed so as to minimize, to the maximum extent practicable, the introduction of pollutants of concern that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the storm water conveyance system as approved by the building official. Pollutants of concern consist of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water, elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bio-accumulate in organisms therein, or the detectable inputs of the pollutant are at concentrations or loads considered potentially toxic to humans and/or flora and fauna.

In meeting this specific requirement, “minimization of the pollutants of concern” will require the incorporation of a BMP or combination of BMPs best suited to maximize the reduction of pollutant loadings in that runoff to the Maximum Extent Practicable. Those BMPs best suited for that purpose are those listed in:

- i. [California Stormwater Quality Association \(CASQA\) Handbook: BMPs for New Development and Redevelopment](#)
- ii. [Bay Area Stormwater Management Agencies Association \(BASMAA\) Design Guidance Manual for Stormwater Quality Protection: Start at the Source 1999](#)

Other available sources of BMPs

- iii. [California Storm Water Best Management Practices Handbooks](#)
 - iv. [Caltrans Storm Water Quality Handbook: Planning and Design Staff Guide](#)
- c. **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.
- d. **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):
- i. **Roof Required:** Trash enclosure areas shall have an all weather noncombustible solid roof to prevent rainwater from mixing with the enclosure’s contents
 - v. **Walls Required:** Trash enclosure shall have structural walls to prevent unauotherized off-site transport of trash.
 - vi. **Doors:** Trash enclosure shall have door(s) which can be secured when closed.
 - vii. **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.
 - viii. **Drain Inlet:** With in 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.
- e. **Design Standards for Structural or Treatment Control BMPs** - The post-construction treatment control BMPs shall incorporate, at a minimum, either a volumetric or flow based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) storm water runoff:
- i. **Volumetric Treatment Control BMP**
 1. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or
 2. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or

3. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for “treatment” that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.
- ii. **Flow Based Treatment Control BMP**
 1. The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area; or
 2. The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.
- f. **Stormwater Runoff Management Plan (SWRMP) required** - The stormwater runoff management plan shall include sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures (post construction BMPs) proposed for managing stormwater runoff.
 - i. The stormwater runoff management plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved stormwater runoff management plan.
 - ii. The chief engineer or designee may require a developer to provide a signed certification from the civil engineer responsible for preparing the stormwater runoff management plan that all stormwater best management practices have been designed to meet the requirements of this chapter.
 - iii. Each certifying civil engineer shall establish to the city's satisfaction that such person has been trained on the design of stormwater quality best management practices not more than three years prior to the certification signature date.
 - iv. Qualifying training shall be conducted by an organization with stormwater quality management expertise, such as a university, the Bay Area Stormwater Management Agencies Association, the American Society of Civil Engineers, the American Public Works Association, or the California Water Environment Association.
- g. **Stormwater BMP operation, maintenance, and replacement responsibility**
 - i. All on-site stormwater management facilities shall be operated and maintained in good condition and promptly repaired/replaced by the property owner(s), an owners' or homeowners' association or other legal entity approved by the city.
 - ii. Any repairs or restoration/replacement and maintenance shall be in accordance with city-approved plans.
 - iii. The property owner(s) shall develop a maintenance schedule for the life of any stormwater management facility and shall describe the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be included with the approved stormwater runoff management plan.
- h. **Stormwater BMP operation and Maintenance Agreement (SWBOMA) required** - Improper maintenance is one of the most common reasons why water quality controls will not function as designed or which may cause the system to fail entirely. It is important to consider who will be responsible for maintenance of a permanent BMP, and what equipment is required to perform the maintenance properly.
 - i. Prior to the issuance of any building permit requiring stormwater management BMPs, the owner(s) of the site shall enter into a formal written stormwater BMP operation and maintenance agreement with the city. The city shall record this agreement, against the property or properties involved, with the County of Santa Clara and it shall be binding on all subsequent owners of land served by the storm water management treatment BMPs (City standard STORMWATER BMP OPERATION AND MAINTENANCE AGREEMENT to be provided by Public Works Engineering).

- ii. The stormwater BMP operation and maintenance agreement shall require that the BMPs not be modified and BMP maintenance activities not alter the designed function of the facility from its original design unless approved by the city prior to the commencement of the proposed modification or maintenance activity.
 - iii. The stormwater BMP operation and maintenance agreement shall provide that in the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the city shall have the authority to perform maintenance and/or repair work and to recover the costs from the owner.
- i. **Stormwater BMP inspection responsibility**
- i. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a **Registered Civil Engineer (RCE)**.
 - ii. Unless otherwise required by the chief engineer or designee, stormwater facility inspections shall be done at least twice per year (April 15th and September 15th) by the RCE. Written records shall be kept of all inspections and shall include, at minimum, the following information:
 - 1. Site address;
 - 2. Date and time of inspection;
 - 3. Name of the person conducting the inspection;
 - 4. List of stormwater facilities inspected;
 - 5. Condition of each stormwater facility inspected;
 - 6. Description of any needed maintenance or repairs; and
 - 7. As applicable, the need for site reinspection.
 - iii. Upon completion of each inspection, an inspection report shall be submitted to Public Works Engineering.
- j. **Records of maintenance and inspection activities** - On or before April 15th and September 15th of each year, the party responsible for the operation and maintenance of on-site stormwater management facilities under the BMP operation and maintenance agreement shall provide the chief engineer or designee with records of all inspections, maintenance and repairs.
- k. **Annual Certification of SWRMP** – On or before September 30th of each year a Registered Civil Engineer (RCE) shall provide written certification that the developments stormwater quality design standards are properly maintained and functioning as required by the SWRMP.