STATEMENT OF EXEMPTION

FILE NO.	H25-039/ER25-225
LOCATION OF PROPERTY	470 West San Carlos
PROJECT DESCRIPTION	Site Development Permit for the demolition of existing structures and the construction of an eight-story building with 276 dwelling units on a 0.89-acre site.

CERTIFICATION

Under the provisions of Section 21080.66 (Added by AB 130 and amended by SB 158) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

PROJECT DESCRIPTION
This project is for a Site Development Permit to construct of an eight-story building with 276 dwelling units on a 0.89-acre site.

AB 130 CONSISTENCY
Pursuant to CEQA Guidelines Section 21080.66, a residential project must meet the following criteria in order to qualify for a statutory exemption from CEQA under AB 130.

1. **Project must meet the definition of a Housing Development Project:** A project must meet the definition of a "Housing Development Project" per Section 65905.5(b) of the CA Government Code to qualify for a statutory exemption. The project meets this definition because it meets the following criteria:
   - Project contains only residential units.
   - Project is a mixed-use development consisting of residential and nonresidential uses that meet any of the following conditions:
     - At least two-thirds of the new or converted square footage is designated for residential use.
     - At least 50 percent of the new or converted square footage is designated for residential use and the project meets both of the following:
   - The project includes at least 500 net new residential units.
   - No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.
   - At least 50 percent of the net new or converted square footage is designated for residential use and the project meets all of the following:
     - The project includes at least 500 net new residential units.
     - The project involves the demolition or conversion of at least 100,000 square feet of nonresidential use.
   - The project demolishes at least 50 percent of the existing nonresidential uses on the site.

- No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.
- Transitional housing or supportive housing.
- Farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

Eligibility: **Consistent.** The project is a residential development consisting of 276 residential units. Therefore, the project is a Housing Development Project as defined by Section 65589.5 (h)(2) of the Government Code.

2. **Zoning and General Plan Consistency:** The project must be consistent with the General Plan and Zoning.

   Eligibility: **Consistent.** The project within the Downtown Commercial Zoning District and Downtown General Plan Land Use Designation. These designations allow for multi-family residential uses. The project would result in a density of 310 dwelling units/acre (DU/AC), consistent with the General Plan designation's maximum density of 800 DU/AC. The project would also be consistent with the required development standards for the Zoning district, including setbacks and height limits. Therefore, the project is consistent with the General Plan and Zoning.

3. **Project site size limitations:** The project site does not exceed 20 acres.

   Eligibility: **Consistent.** The proposed project is approximately 0.89-acre site.

4. **Project site must be in an urban area surrounded by urban uses:** The project is located within an urban area and is surrounded by urban uses.

   Eligibility: **Consistent.** The project site is located at the southwestern corner of West San Carlos Street and Gifford Avenue. The site is surrounded by commercial uses to the west and south, single family residences to the east, and multi-family residences and commercial to the north. Therefore, the project is located within an urban area and surrounded by urban uses.

5. **The project meets minimum density requirements:** The minimum density of the project is more than 15 DU/AC.

   Eligibility: **Consistent.** The project would construct 276 dwelling units on a 0.89-acre site, resulting in a density of 310 DU/AC. Therefore, the density of the project is over 15 dwelling units/acre.

6. **The project will not demolish a historic structure:** The project does not propose demolition of a historic structure placed on a national, state, or local historic register (the City's Historic Resources Inventory).

   Eligibility: **Consistent.** The project site is currently vacant land and does not have any historic structures.

7. **The project is not on natural or protected lands:** The proposed project cannot be on natural and protected lands, as defined pursuant to Section 21067.5, based on the following criteria:
   a. Site is not on prime farmland or farmland of statewide importance.
   b. Site does not contain wetlands.

c. Site is not within a fire hazard area.
d. The site is not a hazardous waste site that is listed pursuant to Section 65962.5 unless either of the following apply:
    - The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses **OR**
    - The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.
e. Site is not within an earthquake fault zone.
f. Site is not within a flood hazard area or floodway.
g. Site is not designated for conservation.
h. Site is not habitat for protected species.

Eligibility: **Consistent.** The project site is a vacant lot, surrounded by urban uses. The site does not contain any sensitive habitats. The project site is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. The site is not within an earthquake fault zone, flood hazard area, nor is it on natural or protected lands.

TRIBAL CONSULTATION

The City sent AB 130 Tribal Consultation Invitations to Tribal Representative of the Muwekma Ohlone Tribe of the San Francisco Bay Area, Tamien Nation, and Indian Canyon Mutsun Band of Costanoan Ohlone People on March 19, 2026. All three tribes formally requested to consult on this project. However, the City did not receive a response from the Indian Canyon Mutsun Band of Costanoan Ohlone People representative after initiating consultation and attempting to schedule a meeting.

The City met with Muwekma Ohlone Tribe on April 7, 2026 and Tamien Nation on May 8. Both tribes recommended Cultural and Tribal Cultural Resources Awareness Training for construction personnel and monitoring during ground disturbing activities by a qualified archaeologist and a Native American representative. The tribes confirmed that the City's Standard Permit Conditions for Cultural and Tribal Cultural Resources were consistent with their recommendations. These conditions were included in the Site Development Permit. Consultation closed on May 18, 2026.

CONCLUSION

The project is a qualifying Housing Development Project that meets project site size and unit density requirements. The project is in an urban area and consistent with the General Plan and Zoning. The project site is not located on natural or protected lands, a hazardous waste site that is listed pursuant to Section 65962.5, nor is it within fire, earthquake, or flood hazard areas. Therefore, the project qualifies for a statutory exemption under CEQA Section 21080.66 and AB 130.

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

Date July 22, 2026

Tina Gray
Deputy

Environmental Project Manager: Bethelhem Telahun

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY
Planning, Building and Code Enforcement

APPEAL OF PERMIT APPLICATION

The San José City Council or Planning Commission may hear appeals to the issuance of a development permit, variance, or exception. Not all permit processes allow for an appeal. Please refer to Table 20-260 of Municipal Code 20.100.220 for a complete list of the types of permit that may be appealed and the related hearing body.

The decision made by the hearing body is final and shall be effective immediately.

This application form must be completed as instructed below to facilitate the appeal.

WHO MAY APPEAL

The applicant, or any property owner or tenant of a property within 1,000 feet of the subject site, may file the appeal. The appellant must sign this application or if signed by the appellant's lawful power of attorney, you must submit written evidence to that person's authority.

Exception for Tree Removal Permits - For a Tree Removal Permit, only property owners or occupants of the subject site or of properties immediately adjacent or across the street from the subject site may appeal.

Exception for Tentative Maps - Any person may file.

DEADLINE

File this completed application **on or no later than 10 calendar days** after a copy of the permit decision by the Planning Commission or Director of Planning has been mailed to the project applicant. Permit decisions are typically made on Wednesdays with the issued permit mailed two days later on a Friday. Therefore, the 10-day deadline is commonly the second Monday following the hearing (by 5:00 p.m.).

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FEES & PROCESS

The application filing fee must be paid by the deadline as previously explained. Find the current fee for a Permit Appeal on the Table of Applications at www.sanjoseca.gov/PlanningApplications. For Tree Removal Permits, a Public Noticing fee will also be charged.

HOW TO SUBMIT - 2 OPTIONS

- **In-Person (no appointment required):** Before the filing deadline stated above, come to the Planning Offices, third floor of City Hall (200 E. Santa Clara Street, San José) to submit the application. You may pay the appeal fee in-person or staff may email you an invoice which must be paid within 14 calendar days of the invoice date for the appeal to be valid.
- **Email:** Before the filing deadline stated above, email the completed application and any attachments to PlanningTechs@sanjoseca.gov. If the appeal is timely and complete, staff will send you an invoice for the appeal fee, which must be paid within 14 calendar days of the invoice date for the appeal to be valid.

WHAT TO SUBMIT

☐ This application form, completed and signed.

☐ Assessor's parcel map showing the subject site outlined.

City staff will set a public hearing date with the Planning Commission or City Council as appropriate. The appeal item will be placed on the agenda. Staff will also prepare a recommendation of action to the Planning Commission or City Council.

FOR QUESTIONS

Speak with a City Planner at 408-535-3555; see phone service hours at www.sanjoseca.gov/Planning.

Para información en español, comuníquese con un Planificador de la ciudad al **408-793-4100.**

Để được hỗ trợ, nói chuyện với Người lập kế hoạch thành phố tại **408-793-4174.**

continued >

Please download and save this computer-fillable form to your computer. Follow instructions for Digital Forms.

1. The undersigned respectfully requests an appeal to the permit issued for the property located at:

PROPERTY ADDRESS: 462-470 West San Carlos Street and Gifford Avenue

PROPERTY OWNER NAME: Delmas Senior Propco LLC

PROPERTY OWNER MAILING ADDRESS: 470 West San Carlos, CA 95126

2. REASON/S FOR APPEAL: If more space is needed, attach a separate sheet.

Appellant appeals the approval of Site Development Permit H25-039 for "The Gifford." The appeal challenges the City's approval because the required findings are not supported by substantial evidence and the administrative record contains material inconsistencies that were not resolved prior to approval. For example, it was widely known that the tenants on this site were receiving financial assistance from the Santa Clara County Housing Authority. The appeal specifically challenges the Density Bonus Law findings and waivers, the Site Development Permit findings, unresolved design and Public Works issues, inconsistencies in the project description and supporting documentation, the City's reliance on future revisions to project documents and conditions of approval to support present findings, and the permit's reliance on an invalid environmental determination. See the attached Statement of Reasons for Permit Appeal and the S+NI letters dated July 3 and July 13, 2026, which are incorporated by reference.

3. PERSON FILING APPEAL

RELATIONSHIP TO SUBJECT SITE CHECK ALL THAT APPLY: ☐ Property Owner ☐ Adjacent Property Owner ☐ Tenant on Site ☑ Property Owner/Tenant Within 1,000 feet ☐ Tentative Map Appeal (anyone may appeal)

PRINT NAME: Bert Weaver

MAILING ADDRESS: [redacted]

EMAIL: [redacted] PHONE: [redacted]

07/31/2026

● SIGNATURE OF PERSON FILING THE APPEAL DATE: [MM/DD/YYYY]

For electronic submittal or virtual appointments, a Digital ID Signature is required.
For in-person appointments, an original ink signature is required.

4. CONTACT PERSON IF DIFFERENT FROM PERSON FILING APPEAL

PRINT NAME:

MAILING ADDRESS:

EMAIL: PHONE:

OFFICE USE ONLY		
FILE NUMBER:		
INTAKE DATE:	BY:	PAID: $
COMMENTS:		

STATEMENT OF REASONS FOR PERMIT APPEAL

Project: The Gifford – Site Development Permit H25-039

This appeal does not challenge the City's policy objective of encouraging housing development. The rezoning of the site from a commercial senior assisted-living use to residential housing will help the City meet its Regional Housing Needs Allocation obligations by allowing additional housing on a site already identified for urban development. Neighborhood leaders recognize the need for new housing and support the appropriate use of this site for residential development.

The surrounding neighborhood has consistently supported higher-density and affordable residential development. Its concerns are not directed at the number of homes proposed, the inclusion of affordable housing, or the transition of the property to residential use. The neighborhood's participation in this process reflects a desire to ensure that the project is thoughtfully designed, that its impacts are adequately addressed, and that the City follows the legal standards that apply to the approval.

Rather, it challenges whether the City complied with the procedural and evidentiary requirements imposed by state law and the San José Municipal Code before approving the Site Development Permit. The administrative record demonstrates that required findings were made while material aspects of the project remained unresolved, internally inconsistent, or subject to future revision.

1. The Administrative Record Was Not Complete or Internally Consistent Prior to Approval.

The Site Development Permit was approved despite numerous unresolved inconsistencies within the administrative record. These include conflicting project descriptions, conflicting affordable housing compliance documents, inconsistent descriptions of requested Density Bonus relief, conflicting project addresses and parcel references, unresolved Public Works documentation, changing descriptions of construction hours, conflicting descriptions of parking configurations, and differing statements concerning the project's environmental documentation and building height.

Rather than resolving these inconsistencies prior to making the required statutory findings, the City improperly relied upon future revisions, permit conditions, and later post-hoc clarifications. A permit approval must be supported by a complete and internally consistent administrative record at the time the required findings are made.

2. The Density Bonus Findings Misstate the Base Density and Bonus Calculation.

The Project proposes 276 units, including 14 Very-Low-Income units. The findings, however, improperly analyze a theoretical maximum density of 714 units and a 143-unit density bonus, even though the applicant does not propose any bonus units. The findings must accurately identify the project actually proposed and the statutory relief actually requested.

3. The Permit Fails to Identify the Statutory Basis for Each Requested Deviation.

The administrative record inconsistently characterizes requested project modifications as Density Bonus waivers, SB 330 protections, Downtown Design Guideline exceptions, or non-applicable items. The permit alternatively states that the applicant requested one concession, no concessions, fourteen waivers, and five waivers. The Hearing Officer approved the project without identifying the legal basis for each requested deviation or making the findings specific to each statutory mechanism.

The administrative record should clearly identify which requested deviations are authorized under Government Code section 65915, which are protected by SB 330, which constitute Downtown Design Guideline exceptions, and which require independent discretionary findings.

4. The Record Lacks Substantial Evidence Supporting the Required Density Bonus Waiver Findings.

Government Code section 65915 requires substantial evidence demonstrating that each waived development standard would **physically preclude construction** of the project at the permitted density.

The applicant repeatedly and improperly equates physical preclusion with:

- Loss of units;
- Reduced unit size;
- Reduced design efficiency;
- Reduced residential floor area; or
- The necessity to redesign the project.

These assertions do not, standing alone, constitute substantial evidence of physical preclusion. None of these statements demonstrates that compliance with the applicable development standard would physically prevent construction of the project at the density otherwise permitted under the Density Bonus Law. The waiver exhibit contains conclusory statements rather than project-specific architectural, engineering, or quantitative

analyses. Furthermore, oral testimony at the Director's Hearing summarized requested waivers but provided no additional factual analysis to cure these written evidentiary deficiencies.

5. Stepback and Massing Findings Are Unsupported by Substantial Evidence.

The record contains no substantial evidence demonstrating that neighborhood transition standards, skyline-level massing requirements, or step back plane requirements **physically preclude construction** of the project. The record lacks alternative massing studies, building-envelope analyses, architectural alternatives, or quantitative evaluations demonstrating that comparable residential density could not be achieved while complying with neighborhood transition standards. Instead, the record assumes that any reduction in efficiency or residential floor area necessarily constitutes physical preclusion, an assumption not supported by substantial evidence.

6. Permit Findings Improperly Rely Upon Future Revisions Rather Than Present Compliance.

The permit repeatedly relies upon future revisions to project documents and conditions of approval to demonstrate compliance with applicable requirements. These include unresolved design revisions, Public Works revisions, service-location changes, environmental documentation, and other project details that remained subject to future modification after permit approval. Required findings must be supported by substantial evidence demonstrating present compliance at the time of decision, not anticipated future revisions.

7. Design Conformance Findings Are Unsupported and Premature.

The permit concludes that the project complies with the Downtown Design Guidelines while simultaneously requiring future revisions to architectural materials, balcony treatments, columns, and other design elements. Similarly, loading, waste management, parking, sidewalk, street-tree, sewer, and service-location issues remained unresolved at the time of approval. The Director therefore approved a project before present compliance with applicable design findings was demonstrated.

8. The Record Contains Materially Inconsistent Building Height Determinations.

The administrative record contains multiple building-height determinations that changed throughout project review. Staff reports identify one height, while subsequent submissions and testimony describe a different measurement methodology and resulting height. Because building height directly impacts the City's statutory analysis under Assembly Bill 130 and local development standards, the City was required to reconcile these differing

measurements, identify the governing methodology, and correct the written findings prior to permit approval.

9. Public Works Findings Rely Upon Unresolved and Deferral-Based Issues.

The permit contains unresolved inconsistencies concerning loading facilities, parking dimensions, trash staging, sidewalk configuration, street trees, sanitary sewer capacity, and transportation analysis. Rather than resolving these issues prior to approval, the City deferred them to post-approval review or future permit conditions. These unresolved issues further demonstrate that material aspects of project compliance remained under review at the time the required findings were made.

10. The Permit Relies Upon a Defective and Separately Appealed Environmental Determination.

The permit incorporates the City's AB 130 environmental determination, which is separately appealed and incorporated herein by reference. The permit further relies upon environmental documentation that evolved continuously during review—including reliance on an outdated Soil Management Plan prepared for a prior project, deferred environmental oversight, and conditional measures to address site contamination. Approval of the SDP prior to securing a legally sufficient, final environmental determination constitutes procedural error.

11. Reference to the nearby Aquino project.

The project in question is on a much narrower street with different characteristics, taking this project and copying it here does not conform with the design guidelines or best practices. It is entirely inconsistent, incompatible and lacks any aesthetic harmony with historic homes along Gifford.

12. Saturday work

The project excludes concrete pours on Saturday. Please also include ground excavation and any other soil work in the list of excluded items to be performed on Saturdays.

REQUESTED RELIEF

Appellant respectfully requests that the City Council grant the appeal, set aside approval of Site Development Permit H25-039, and remand the project for further proceedings on a revised project.

Prior to reconsidering the application, the City must be directed to:

1. Complete and reconcile the administrative record;

2. Correct the project description and supporting documentation;

3. Clearly identify the specific statutory basis for every requested deviation;

4. Adopt Density Bonus findings supported by substantial evidence demonstrating physical preclusion for each individual waiver;

5. Resolve outstanding design, Public Works, and service-location issues prior to approval;

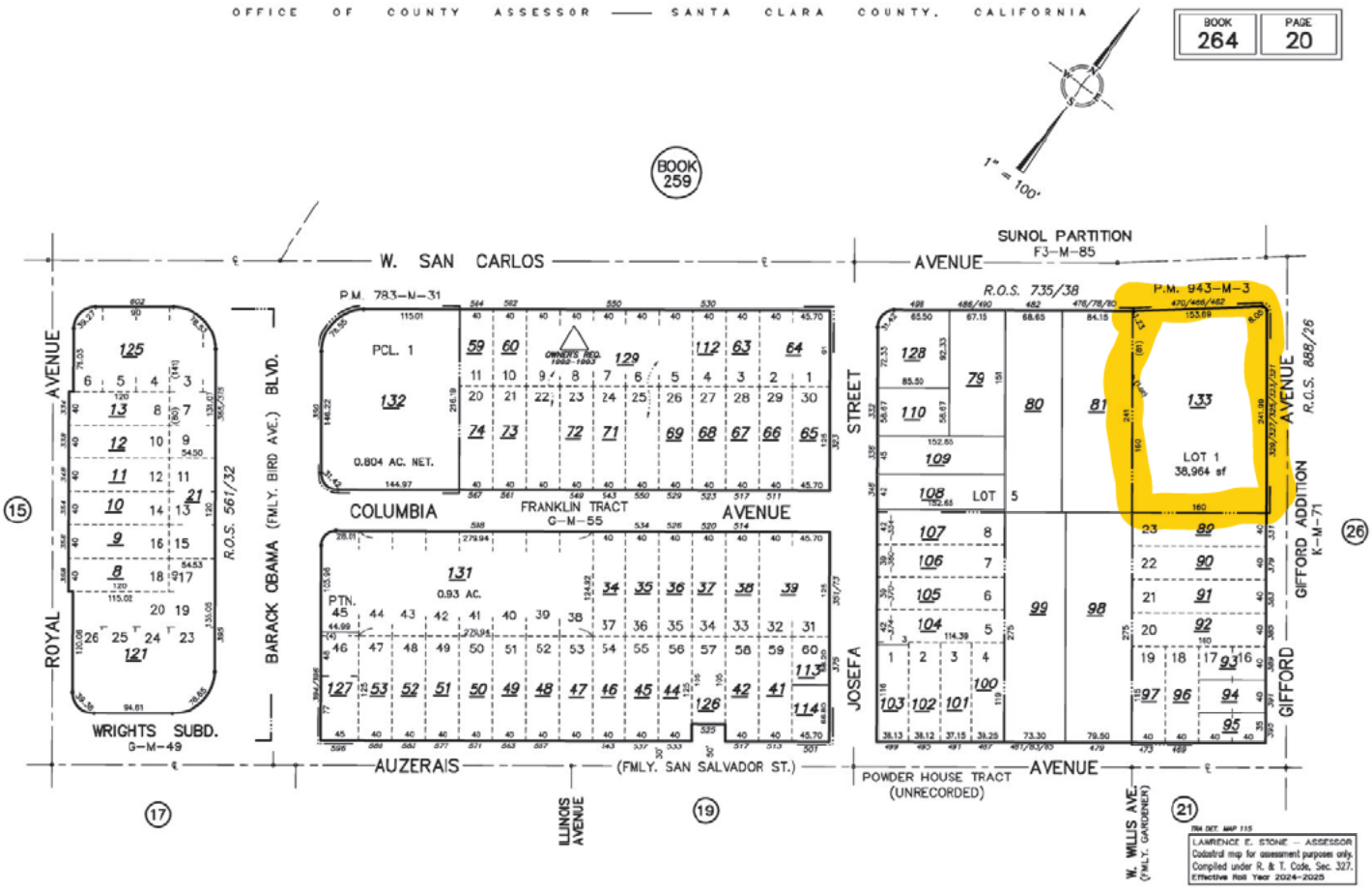
6. Reconcile all conflicting building-height determinations within the record; and

7. Adopt a legally sufficient and final environmental determination before taking action on the Site Development Permit.

This neighborhood has demonstrated its support for the development of hundreds of new homes in the surrounding area, including higher-density and affordable housing. Neighborhood leaders look forward to the City's review of a revised and improved residential project that addresses the unresolved issues identified in this appeal and complies with all applicable legal requirements.

First American

clarityfirst® Tax Map 466 W SAN CARLOS ST, SAN JOSE, CA 95110



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☐ Assessor's parcel map showing the subject site outlined.

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Để được hỗ trợ, nói chuyện với Người lập kế hoạch thành phố tại **408-793-4174.**

continued >

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RELATIONSHIP TO SUBJECT SITE CHECK ALL THAT APPLY: ☐ Property Owner ☐ Adjacent Property Owner ☐ Tenant on Site ☑ Property Owner/Tenant Within 1,000 feet ☐ Tentative Map Appeal (anyone may appeal)

PRINT NAME: Bert Weaver

MAILING ADDRESS: [redacted]

EMAIL: [redacted] PHONE: [redacted]

07/31/2026

● SIGNATURE OF PERSON FILING THE APPEAL DATE: [MM/DD/YYYY]

For electronic submittal or virtual appointments, a Digital ID Signature is required.
For in-person appointments, an original ink signature is required.

4. CONTACT PERSON IF DIFFERENT FROM PERSON FILING APPEAL

PRINT NAME:

MAILING ADDRESS:

EMAIL: PHONE:

OFFICE USE ONLY		
FILE NUMBER:		
INTAKE DATE:	BY:	PAID: $
COMMENTS:		

PARCEL MAP

CONSISTING OF TWO (2) SHEETS

BEING ALL OF LOTS 24, 25, 26, 27, 28, 29, 30 & 31 AS SHOWN ON THAT CERTAIN MAP ENTITLED, "MAP OF THE GIFFORD ADDITION BEING LOT 2, SUNOL PARTITION, OF A PART OF THE LOS COCHES RANCHO SANTA CLARA CO. CAL.", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MAY 5, 1905 IN BOOK K OF MAPS, AT PAGE 71.

LYING WITHIN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

DATE: AUGUST 2021

Civil Engineering Associates

Civil Engineers • Planners • Surveyors

2055 Gateway Place Suite 550
San Jose, CA 95110

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THE MAP; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID REAL PROPERTY; AND THAT WE HEREBY CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE AND ALL DEDICATIONS AND OFFERS OF DEDICATION THEREIN.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: PUBLIC STREET AND PORTIONS OF PUBLIC STREETS NOT PREVIOUSLY EXISTING AS SHOWN ON THE MAP WITHIN SAID SUBDIVISION FOR ANY AND ALL PUBLIC USES UNDER, UPON AND OVER SAID STREETS.

WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR SIDEWALK PURPOSES AND APPURTENANCES THERETO AND THE RIGHT TO CONSTRUCT, INSTALL, USE AND REPLACE A PUBLIC SIDEWALK ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "SE" (SIDEWALK EASEMENT). AS REQUIRED BY SAN JOSE MUNICIPAL CODE 14.16.2200, INCLUDING ALL AMENDMENTS THERETO, PROPERTY OWNER ADJACENT TO OR FRONTING ON ANY PORTION OF A SIDEWALK AREA IS REQUIRED TO REPAIR AND MAINTAIN THE SIDEWALK AREA.

OWNER

DELMAS SENIOR PROPCO LLC, A DELAWARE LIMITED LIABILITY COMPANY

BY: URBAN CATALYST OPERATING PARTNERSHIP LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS SOLE MEMBER

BY: URBAN CATALYST MANAGER LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS MANAGER

BY: _____ DATE: 8/5/21
ERIK HAYDEN, AUTHORIZED SIGNATORY

OWNER'S ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

ON August 5, 2021, BEFORE ME, Angela Kay Ott, A NOTARY PUBLIC,

PERSONALLY APPEARED Erik Hayden
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/~~ARE~~ SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/~~SHE/THEY~~ EXECUTED THE SAME IN HIS/~~HER/THEIR~~ AUTHORIZED CAPACITY(~~IES~~) AND BY HIS/~~HER/THEIR~~ SIGNATURE(S) ON THE INSTRUMENT THE PERSON(~~S~~), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(~~S~~) ACTED, EXECUTED THE INSTRUMENT.

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

WITNESS MY HAND

SIGNATURE Angela Kay Ott

NAME (PRINT) Angela Kay Ott

PRINCIPAL PLACE OF BUSINESS San Jose, CA

MY COMMISSION NUMBER 2213193

MY COMMISSION EXPIRES October 6, 2021

TRUSTEE

WEST BAY CAPITAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: WESTSIDE CAPITAL MANAGEMENT, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
ITS: MANAGER

BY: _____ DATE: August 9, 2021
BY: EDWARD R. MAREK, JR.
ITS: MANAGER

TRUSTEE'S ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA Los Angeles

ON August 9, 2021 BEFORE ME, Adam M. Deragisch, A NOTARY PUBLIC,

PERSONALLY APPEARED Edward R. Marek JR.
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/~~ARE~~ SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/~~SHE/THEY~~ EXECUTED THE SAME IN HIS/~~HER/THEIR~~ AUTHORIZED CAPACITY(~~IES~~) AND BY HIS/~~HER/THEIR~~ SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

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

WITNESS MY HAND

SIGNATURE _____

NAME (PRINT) Adam M. Deragisch

PRINCIPAL PLACE OF BUSINESS Los Angeles, CA

MY COMMISSION NUMBER 2234300

MY COMMISSION EXPIRES April 12, 2022

ADAM M. DERAGISCH
Notary Public - California
Los Angeles County
Commission # 2234300
My Comm. Expires Apr 12, 2022

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF URBAN CATALYST UC TDT JV, LLC SEPTEMBER, 2019. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE POSITIONS BEFORE JANUARY 2025, AND THAT THE MONUMENTS ARE, OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY.

ANDREW TURNER
LS NO. 9104

PROFESSIONAL LAND SURVEYOR ANDREW TURNER No. 9104 STATE OF CALIFORNIA

DATE: 8/3/2021

SOILS AND GEOLOGICAL REPORT

A SOILS REPORT AND/OR GEOLOGICAL REPORT ON THIS PROPERTY HAS BEEN PREPARED BY EARTH SYSTEMS PACIFIC DATED JULY 28, 2020, A COPY OF WHICH HAS BEEN FILED WITH THE CITY OF SAN JOSE.

CITY ENGINEER'S STATEMENT

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

I ALSO HEREBY ACCEPT, ON BEHALF OF THE CITY OF SAN JOSE, THE DEDICATION OF ALL STREETS AND PORTIONS THEREOF AND ALL EASEMENTS OFFERED FOR DEDICATION AS SHOWN ON SAID MAP WITHIN THE DISTINCTIVE BORDER LINE.

DATE: 10/31/2021

REGISTERED PROFESSIONAL ENGINEER MATTHEW ALAN CANO C65479 CIVIL STATE OF CALIFORNIA

MATTHEW ALAN CANO, RCE 65479
CITY OF SAN JOSE, CALIFORNIA

CITY LAND SURVEYOR'S STATEMENT

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

DATE: 10/20/2021

LAND SURVEYOR STEVE G. CHOY PLS 6672 STATE OF CALIFORNIA

STEVE G. CHOY, LS 6672
CITY OF SAN JOSE, CALIFORNIA

APPROVAL BY THE DIRECTOR OF PLANNING

I STATE THAT THIS PARCEL MAP HAS BEEN CHECKED AND COMPLIES WITH THE TENTATIVE MAP (T20-020) AND ITS CONDITIONS AS APPROVED ON THE 12TH DAY OF MAY, 2021

CHU CHANG
ACTING DIRECTOR OF PLANNING
OF THE CITY OF SAN JOSE, CALIFORNIA

DATE: 10/19/21

BY: _____
DEPUTY

RECORDER'S STATEMENT

FILE NO. 25147123 FEE $ 85.00 PAID. ACCEPTED FOR RECORD AND FILED THIS 28 DAY OF October, 2021 AT 9:41A M. IN BOOK 943 OF MAPS AT PAGE(S) 3-4, SANTA CLARA COUNTY RECORDS, AT THE REQUEST OF CHICAGO TITLE COMPANY.

REGINA ALCOMENDRAS, COUNTY RECORDER
SANTA CLARA COUNTY, CALIFORNIA

BY: _____
DEPUTY Oscar Urquilla

SHEET 1 OF 2

<T20-020>

943 / 31 / 4

25147123

3

PARCEL MAP

CONSISTING OF TWO (2) SHEETS

BEING ALL OF LOTS 24, 25, 26, 27, 28, 29, 30 & 31 AS SHOWN ON THAT CERTAIN MAP ENTITLED, "MAP OF THE GIFFORD ADDITION BEING LOT 2, SUNOL PARTITION, OF A PART OF THE LOS COCHES RANCHO SANTA CLARA CO. CAL.", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MAY 5, 1905 IN BOOK K OF MAPS, AT PAGE 71.

LYING WITHIN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

DATE: AUGUST 2021

Civil Engineering Associates
Civil Engineers · Planners · Surveyors
2055 Gateway Place Suite 550
San Jose, CA 95110

NOTES

1. ALL DISTANCES AND DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
2. THE AREA WITHIN THE DISTINCTIVE BORDER IS 0.895 ACRES, MORE OR LESS.
3. THE DISTINCTIVE BORDER LINE DENOTES THE BOUNDARY OF THIS SUBDIVISION.

BASIS OF BEARINGS

THE BEARING NORTH 53°50'00" EAST AS FOUND MONUMENTED ON W SAN CARLOS STREET, AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORDED IN BOOK 735 OF MAPS AT PAGE 38, SANTA CLARA COUNTY RECORDS, WAS TAKEN AS THE BASIS FOR ALL BEARINGS SHOWN ON THIS MAP.

LEGEND

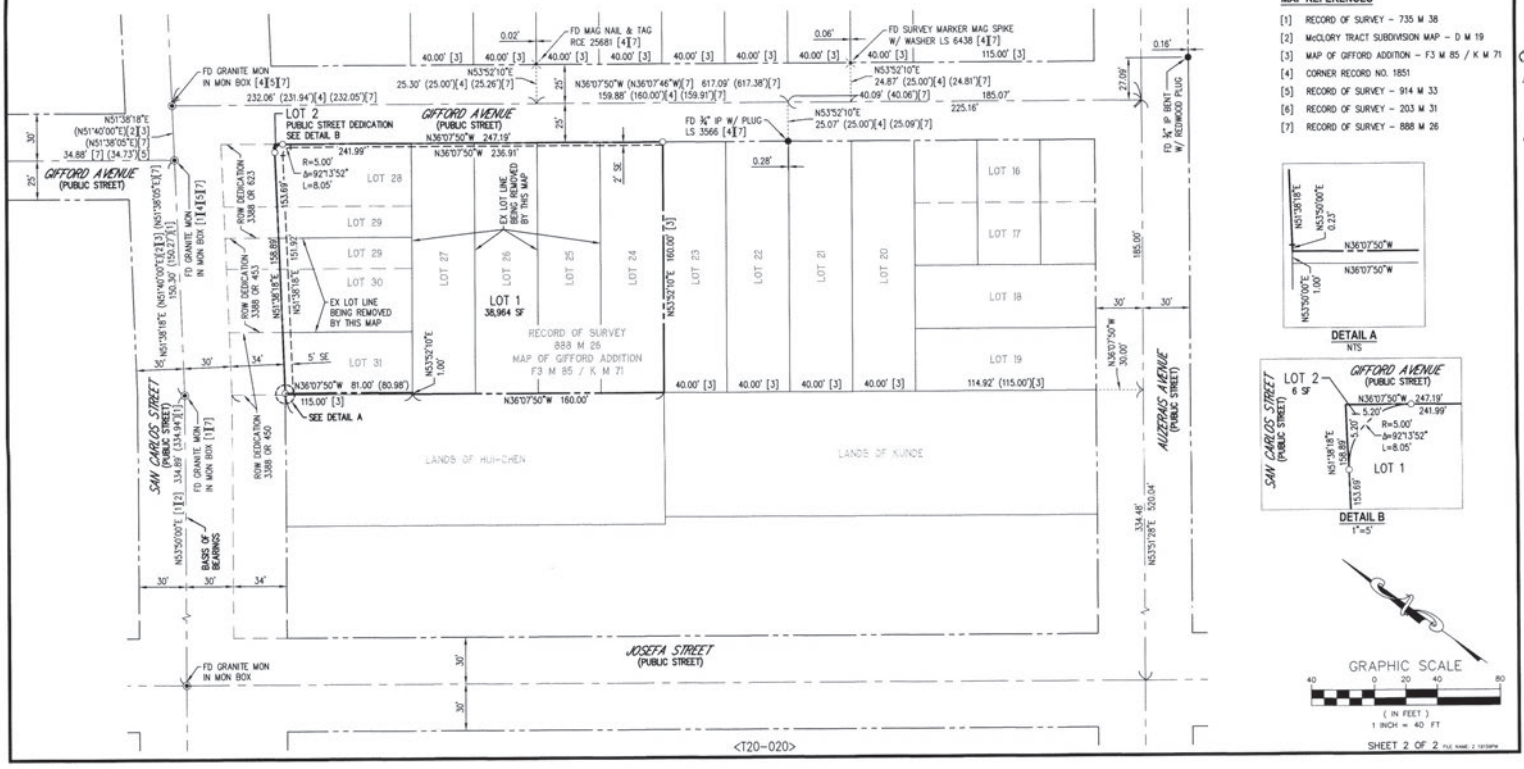
- DISTINCTIVE BOUNDARY
- RIGHT OF WAY
- EXISTING PROPERTY LINE
- CENTER LINE
- NEW EASEMENT LINE
- BOUNDARY TIE
- FOUND BRASS DISK IN CITY MONUMENT WELL (AS NOTED)
- FOUND IRON PIPE (AS NOTED)
- SET ¾" IRON PIPE OR NAIL & TAG, TAGGED LS 9104
- FOUND NAIL (AS NOTED)
- (100.00')[1] RECORD DATA W/ REFERENCE

ABBREVIATIONS

FD	FOUND
MON	MONUMENT
NTS	NOT TO SCALE
ROW	RIGHT-OF-WAY
SFNF	SEARCHED FOR NOT FOUND
SE	SIDEWALK EASEMENT

MAP REFERENCES

[1] RECORD OF SURVEY – 735 M 38
[2] McCLORY TRACT SUBDIVISION MAP – D M 19
[3] MAP OF GIFFORD ADDITION – F3 M 85 / K M 71
[4] CORNER RECORD NO. 1851
[5] RECORD OF SURVEY – 914 M 33
[6] RECORD OF SURVEY – 203 M 31
[7] RECORD OF SURVEY – 888 M 26



DETAIL A
NTS

DETAIL B
1"=5'

GRAPHIC SCALE
40 0 20 40 80
(IN FEET)
1 INCH = 40 FT

SHEET 2 OF 2

943/4/4

25147123

4

Reason for Appeal of the The Site Development Permit

File Nos: H25-039 & ER25-225 (The Gifford)

Santa Rita Trust supports thoughtful residential development and recognizes the City's obligation to facilitate new housing. However, the approval of a Site Development Permit is a discretionary action that requires findings supported by substantial evidence in the administrative record.

The issue before the Planning Commission is not whether the project may ultimately satisfy the California Building Code or California Fire Code during future permit review. Rather, the issue is whether the Director possessed substantial evidence to make the findings required by San José Municipal Code § 20.100.630 and Government Code § 65915 at the time the Site Development Permit was approved.

The administrative record demonstrates that those findings were made before several critical issues had been fully evaluated or resolved.

1. The Record Does Not Support the Director's Fire Safety Findings

Before approving the Site Development Permit, the Director was required by San José Municipal Code § 20.100.630 to find that the project would not be detrimental to the public health, safety, or welfare or adversely affect surrounding properties. The administrative record does not support those findings.

The applicant's Fire Variance Application acknowledges that portions of the proposed building exceed the California Fire Code's standard fire apparatus access requirements by locating exterior walls approximately 210 feet from fire apparatus access roads and eliminating the customary six-foot perimeter access path along the south and east property lines. The applicant therefore requested a Fire Department variance and proposed enhanced sprinkler protection as an alternative means of compliance.

The variance request is significant because it confirms that the approved design does not satisfy the standard fire access requirements without discretionary relief. Consistent with that unresolved issue, the approved permit defers compliance with applicable Fire Code requirements until the Building Permit stage rather than demonstrating that the required fire access issues had been resolved before discretionary approval.

Santa Rita Trust raised these concerns through written comments and public testimony, requesting clarification regarding fire access, building separation, and life-safety measures.

Those concerns remained unresolved when the Director approved the Site Development Permit.

The question before the Planning Commission is not whether the project may ultimately comply with the California Fire Code. Rather, it is whether the Director had an adequate evidentiary basis to make the findings required by San José Municipal Code § 20.100.630 at the time of approval. Because the record demonstrates that the project required a discretionary Fire Department variance while deferring resolution of critical fire access issues to future permit review, the Director's findings regarding public safety and impacts on surrounding properties are not supported by the administrative record.

2. The Density Bonus Waiver Findings Do Not Satisfy Government Code § 65915.

Government Code § 65915 authorizes a waiver only where application of a development standard would physically preclude construction of the development at the permitted density.

The Director concluded that the requested waiver was justified because compliance with the Downtown Design Standards would reduce unit efficiency and eliminate approximately eight residential units as designed

However, the administrative record contains no analysis demonstrating that compliance with the development standard would physically preclude construction of the project, as the statute requires.

The record contains no evaluation of alternative building layouts, redistribution of floor area, revised unit configurations, or other feasible design alternatives that would allow compliance while maintaining the project's residential density.

Instead, the findings address only project efficiency and preferred design.

Government Code § 65915 requires more.

Because the administrative record does not demonstrate physical necessity, the statutory findings supporting the waiver are not supported by substantial evidence. (*Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329.)

3. The Director's Findings Regarding Public Health and Safety Are Premature.

Government Code § 65915 permits limitation of a waiver where there is substantial evidence of a specific adverse impact on public health or safety that cannot be satisfactorily mitigated.

The administrative record identifies several issues requiring additional engineering review before construction may proceed.

The Final Public Works memorandum requires further geotechnical investigation, grading review, retaining wall analysis, drainage design, stormwater review, and foundation recommendations before grading permits or Public Works clearance may be issued.

Santa Rita Trust advised the City that excavation would occur immediately adjacent to its existing commercial building and requested project-specific measures addressing structural protection, vibration, settlement, drainage, retaining walls, and construction impacts. Those concerns were reiterated during both the written comment process and the Director's public hearing.

Despite receiving notice of these concerns before approval, the permit does not require a project-specific Construction Protection Plan or identify engineering measures demonstrating how adjacent improvements will be protected during excavation and construction.

The issue is not whether these matters may ultimately be addressed during later permit review. The issue is whether the Director possessed sufficient evidence to conclude that the project would avoid unacceptable impacts to neighboring properties when the Site Development Permit was approved.

The administrative record does not support that conclusion.

4. The Director's Traffic Safety Findings Are Not Supported by Substantial Evidence.

The Director found that the project provides safe vehicle and pedestrian access.

The approved project includes 276 residential units, 217 parking spaces, mechanical parking systems, loading operations, rideshare activity, deliveries, and driveway access immediately adjacent to an existing commercial property driveway access

The Final Public Works memorandum relies upon Assembly Bill 130 to exempt the project from CEQA transportation analysis while simultaneously requiring operational measures relating to garage access, vehicle stacking, warning devices, grading, and future engineering review before permits may be issued.

Santa Rita Trust submitted written comments and public testimony identifying concerns regarding driveway conflicts, sight distance, construction traffic, access, and traffic flow adjacent to its commercial operations before the Director acted.

Although those concerns were raised during the prior approval process, the administrative record contains no engineering analysis evaluating driveway interactions, vehicle access, truck turning movements, or operational conflicts between the proposed project, and the adjacent commercial property .

The record does not contain substantial evidence supporting the Director's finding that the project provides adequate and safe access as required by San José Municipal Code § 20.100.630.

Conclusion and Requests

This appeal does not challenge the City's housing objectives or oppose residential development on the project site.

Rather, Santa Rita Trust respectfully requests that the Planning Commission ensure that the statutory requirements governing discretionary approvals have been satisfied.

Because the Director's findings under San José Municipal Code § 20.100.630 and Government Code § 65915 are not supported by substantial evidence in the administrative record, the Planning Commission should reverse the approval or remand the application with instructions that the City complete the required analyses, make the findings required by law, and impose appropriate conditions or modifications at least requiring the minimum building separation on the south and east side before approving the Site Development Permit.

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Planning, Building and Code Enforcement
PLANNING DIVISION

Exhibit D – Permit Appeal Responses

The council memo provides a summary of the appellant comments and staff's analysis' of each concerned raised. This exhibit provides the complete description of each issue raised along with a more thorough analysis.

1. **Appeal Comment #1: The administrative record was not complete or internally consistent prior to approval.**

   The appeal statement raises the following concern: the Site Development Permit was approved despite numerous unresolved inconsistencies in the administrative record. These include conflicting project descriptions, conflicting affordable housing compliance documents, inconsistent descriptions of requested Density Bonus relief, conflicting project addresses and parcel references, unresolved Public Works documentation, changing descriptions of construction hours, conflicting descriptions of parking configurations, and differing statements concerning the project's environmental documentation and building height.

   Rather than resolving these inconsistencies before making the required statutory findings, the City improperly relied on future revisions, permit conditions, and post-hoc clarifications. A permit approval must be supported by a complete and internally consistent administrative record at the time the required findings are made.

   Staff Response: The project was originally submitted under the project address 313 Gifford Avenue. To help clarify and accurately depict the location and orientation of the proposed project, the site was updated to a West San Carlos address. After coordinating with the Addressing team, the project site was assigned 470 West San Carlos. During the review process, the project submittals were updated, so the project description was revised to reflect the changes. Changes to the project description during a review are common, as projects often need to modify their design to conform to development standards. A project description is typically finalized once the project is noticed for hearing.

   The applicant has adjusted construction hours in response to community feedback about construction on Saturdays. The changes reduced construction hours and eliminated concrete pours on Saturdays. The staff included 43conditions of approval related to grading, stormwater, waste management, building permit requirements, fire code requirements, environmental mitigation, and vibration monitoring requirements that need to be complete prior to obtaining issuance of a building permitting stage it. These conditions of approval are standard as final refinements of the project to ensure it meets Fire and Building Code requirements. The applicant needs to satisfy these conditions to

move forward to obtaining a construction permit from the city.

The team received a final memo from the Housing Department on June 18, 2026. The final memo noted the Housing Department's requirements and conditions of approval for the project. The Public Works team also issued a final memo on July 9, 2026, with their conditions of approval. These items would need to be addressed at the Building Permit stage and when completing their Grading Permit.

On environmental determination made by staff, the project qualified under AB 130 as it met the qualifying criteria as detailed in the environmental resolution attached to this memo. This analysis is substantial evidence supporting the City's determination that the project qualifies statutory exemption under AB 130. It should be noted that building height calculations is not a qualifying criterion for AB 130. Rather, the height determines which labor standards apply to qualifying projects.

The height of the building when the project was originally reviewed was measured to the tallest point of the building, which was the top of the parapet of the building. Later brought to staff's attention, the building was measured using the definition of height under Section 20.200.510, which notes that "height" for a structure is determined by the vertical distance between the top surface and the "grade" immediately below it. In this case, the height measured from the grade to the flat roof which is the top surface of the building. is 84 feet 10 inches, meeting the 85-foot requirement.

Lastly, the requested five Density Bonus waivers were included in the permit which is attached to this memo and included in the final plan set approved for the project. Each waiver is supported by a written justification demonstrating that application of the development standard would preclude development of the Project as proposed. The applicant also submitted 45 pages of site plans showing the dimensions of the Project in minute detail. The justifications and site plan together constitute substantial evidence to support the waiver grants.

2. **Appeal Comment #2: The Density Bonus Findings Mis-state the Base Density and Bonus Calculation**

   The project proposes 276 units, including 14 very-low-income units. The findings, however, improperly analyze a theoretical maximum density of 714 units and a 143-unit density bonus, even though the applicant does not propose any bonus units. The findings must accurately identify the project proposed and the statutory relief requested.

   Staff Response: The project includes an application pursuant to the State Density Bonus Law (Government Code Section 65915). The project provides 14 units for very low-income households. The Downtown General Plan land use designation allows residential density at 800 dwelling units per acre, equivalent to 714 base units. Pursuant

to Government Code Section 65915(f)(2) and Government Code Section 65915(v)(1)(B), the project is eligible for a 20% density bonus, or additional or additional units. The project proposes includes 276 units and will not use the bonus to provide additional units. Per the courts in *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549 and *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755 clarified that Density Bonus Law waivers apply to the project as designed. In other words, when a project qualifies under the Density Bonus Law, a city may not apply any development standards that physically preclude development of the project as proposed by the developer at the density allowed. The California Department of Housing and Community Development (HCD) has notified various local agencies that they cannot require a qualified project to be redesigned to avoid the need for a waiver. The city must consider the project as proposed, inclusive of any requested concessions or waivers.

Staff acknowledge that the permit granted by the director did include some error in the initial calculation of the number of additional units the project would be eligible to receive. However, the project did not elect to increase their unit count from their proposal this error has now been corrected. The miscalculations from staff do not impact on the overall project. Since the project qualifies for Density Bonus Law, they are awarded unlimited waivers, and the project is not required to supplement the administrative record to support the waiver grants beyond what was previously provided.

3. **Appeal Comment #3: The permit fails to identify the statutory basis for each requested deviation.**

   The administrative record inconsistently characterizes requested project modifications as Density Bonus waivers, SB 330 protections, Downtown Design Guidelines Exceptions, or non-applicable items. The permit alternatively states that the applicant requested one concession, no concessions, fourteen waivers, and five waivers. The Hearing Officer approved the project without identifying the legal basis for each requested deviation or making the findings specific to each statutory mechanism.

   The administrative record should clearly identify which requested deviations are authorized under Government Code Section 65915, which are protected by SB 330, which constitute Downtown Design Guideline exceptions, and which require independent discretionary findings.

   Staff Response: During the Director's, it was brought to staff's attention that there were some typos in the permit language that needed clarity. Prior to the permit being finalized after the Director's hearing, staff corrected the typos and errors in the permit to clearly note that the project is not requesting any concessions and that there will be five Density Waivers granted to the project. The waivers as noted on the final permit resolution notes the development standards being waived and which document the

development standard originates from.

If any development standard would physically prevent the project from being built at the permitted density and with the granted concessions/incentives, the Applicant may request that those standards be waived or reduced. The waiver or reduction of a development standard does not count as an incentive, and there is no limit on the number of development standard waivers that may be requested or granted.

The waiver or modification of Development Standard must be granted if it would not have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health or safety or the physical environment or on real property listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the Housing Development unaffordable to households of Low and Moderate Income. For this Subsection, "specific adverse impact " means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the Housing Development was deemed complete.

4. **Appeal Comment #4: The record lacks substantial evidence supporting the required density bonus waiver findings**

The appellant cites that Government Code section 65915 requires substantial evidence demonstrating that each waived development standard would physically preclude construction of the project at the permitted density.

The applicant repeatedly and improperly equates physical preclusion with:

- Loss of units;
- Reduce unit size;
- Reduce design efficiency;
- Reduced residential floor area; or
- The necessity to redesign the project.

These assertions do not, stand alone, constitute substantial evidence of physical preclusion. None of these statements demonstrates that compliance with the applicable development standard would physically prevent construction of the project at the density otherwise permitted under the Density Bonus Lw. The waiver exhibit contains conclusory statements rather than project-specific architectural, engineering, or quantitative analyses. Furthermore, oral testimony at the Director’s Hearing summarized requested waivers but provided no additional factual analysis to cure these written evidentiary deficiencies, SJMC 20.90.120

Staff Response: The applicant requested five waivers and provided written justification demonstrating that the application of the development standard would preclude the development of the Project as proposed. The applicant also submitted a plan set of site plans showing the project's dimensions in detail. The justification and site plan, together, constitute more than enough substantial evidence to support the requested waivers. The state law places the burden on the city that if they deny a waiver request, it must be based on the finding that it will result in a "specific, adverse impact" on health or safety or a historical resource, or in contravention of state law.

Further, a specific, adverse impact upon health or safety is defined as "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete as noted on Section 65589.5. Per the courts in *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549 and *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755 clarified that Density Bonus Law waivers apply to the project as designed. Staff did not identify any impact on public health and safety from the granting of the requested waivers.

5. **Appeal Comment #5: Stepback and massing findings are unsupported by substantial evidence.**

The record contains no substantial evidence demonstrating that neighborhood transition standards, skyline-level massing requirements, or step back plan requirements physically preclude construction of the project. The record lacks alternative massing studies, building-envelope analyses. Architectural alternatives, or demonstrating that neighborhood transition standards, skyline-level massing requirements, or step-back quantitative evaluations demonstrating that comparable residential density could not be achieved while complying with neighborhood transition standards. Instead, the record assumes that any reduction in efficiency or residential floor are necessarily constitutes physical preclusion, an assumption not supported by substantial evidence.

Staff Response: As mentioned above, under State Density Bonus Law, a city is precluded from applying any development standard to a project if it will physically preclude development at the density and with the concessions permitted by Density Bonus Law. This preclusion applies whether the applicant requests a waiver for that standard or not.

Regarding the stepback plane requirement, per the courts in *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549 and *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755 clarified that Density Bonus Law waivers apply to the project as designed. In other words, when a project qualifies under the Density Bonus Law, a city

may not apply any development standards that physically preclude development of the project as proposed by the developer at the density allowed. The California Department of Housing and Community Development (HCD) has notified various local agencies that they cannot require qualified projects to be redesigned to avoid the need for a waiver. The city must consider the project as proposed, inclusive of any requested concessions or waivers.

6. **Appeal Comment #6: Permit findings improperly rely upon future revisions rather than present compliance.**

   The permit repeatedly relies upon future revisions to project documents and conditions of approval to demonstrate compliance with applicable requirements. These include unresolved design revisions, Public Work revisions, service-location changes, environmental documentation, and other project details that remained subject to future modifications after permit approval. Required findings must be supported by substantial evidence demonstrating present compliance at the time of decision, not anticipated future revisions.

   Staff Response: The City properly imposed conditions of approval on the Site Development Permit that the Applicant must satisfy prior to receipt of building permits for the Project. It is a legally acceptable and highly common practice to subject a discretionary entitlement to conditions of approval, particularly about a project's compliance with detailed engineering or safety standards (e.g., building, electrical, plumbing codes), utility requirements, or public improvements. That the Director imposed these common conditions of approval on the Project does not evidence that material issues were unresolved at the time of approval.

7. **Appeal Comment #7: Design Conformance Findings are unsupported and premature.**

   The permit concludes that the project complies with the Downtown Design Guidelines while simultaneously requiring future revision to architectural materials, balcony treatments, columns, and other design elements. Similarly, loading, waste management, parking, sidewalk, street-tree, sewer, and service-location issues remained unresolved at the time of approval. The Director therefore approved a project before present compliance with applicable design findings was demonstrated.

   Staff Response: The applicant committed to revising the project to include the additional architectural changes noted above to the plan set. These changes were not reflected on the final plan set submitted to staff. Staff added a condition of approval requiring that, before the City issues the building permit for this project, the changes be reflected on the plan set.

   As previously mentioned in comment #6, it is a legally permissible and widely practiced

approach to subject a discretionary entitlement to conditions of approval, particularly regarding a project's compliance with detailed engineering or safety standards (e.g., building, electrical, and plumbing codes), utility requirements, or public improvements. That the Director imposed these common conditions of approval on the Project does not evidence that material issues were unresolved at the time of approval. These conditions would be applied at appropriate phases of the project such as prior to building permit issuance or construction, thus ensuring compliance with City standards and requirements.

8. **Appeal Comment #8: The Record Contains Materially Inconsistent building height determinations**

   The administrative record contains multiple building-height determinations that changed throughout project review. Staff reports identify one height, while subsequent submissions and testimony describe a different measurement methodology and resulting height. Because building height directly impacts the City's statutory analysis under Assembly Bill 130 and local development standards, the City was required to reconcile these differing measurements, identify the governing methodology, and correct the written findings prior to permit approval.

   Staff Response: Under the provisions of AB130, labor standards apply to projects that have a building height of 85 feet or greater. AB130 provides the criteria of over 85 feet in height but does not establish a definition for the measurement methodology of a building. The appropriate technical measurement is the California Building Code section 202 definition of building height: the vertical distance from grade plane to the average height of the highest roof surface. To align with State law, the city defaulted to the California Building Code for how the height of the building was determined. In this case, the height measured from the grade to the flat roof which is the top surface of the building is 84 feet 10 inches, below the 85-foot height trigger for labor standards under AB 130.

9. **Appeal Comment #9: Public Works findings rely upon unresolved and deferral-based issues.**

   The appellant notes that the permit contains unresolved inconsistencies concerning loading facilities, parking dimensions, trash staging, sidewalk configuration, street trees, sanitary sewer capacity, and transportation analysis. Rather than resolving these issues prior to approval, the City deferred them to post-approval review or future permit conditions. These unresolved issues further demonstrate that material aspects of project compliance remained under review at the time the required findings were made.

   Staff Response: The public works team has issued a final memo for the project on July 9, 2026. Staff imposed conditions of approval on the Site Development Permit that Applicant must satisfy prior to receipt of building permits for the Project. It is a legally acceptable and highly common practice to subject a discretionary entitlement to conditions of approval, particularly about a project's compliance with detailed

engineering or safety standards (e.g., building, electrical, plumbing codes), utility requirements, or public improvements. That the Director imposed these common conditions of approval on the Project does not evidence that material issues were unresolved at the time of approval.

10. **Appeal Comment #10: The permit relies upon a defective and separately appealed environmental determination.**

    The appellant notes that the permit incorporates the City's AB 130 environmental determination, which is separately appealed and incorporated herein by reference. The permit further relies upon environmental documentation that evolved continuously during review—including reliance on an outdated soil management plan prepared for a prior project, deferred environmental oversight, and conditional measure to address site contamination. Approval of the SDP prior to securing a legally sufficient, final environmental determination constitutes procedural error.

    Staff Response: For a project to be recommended for approval, it must meet condition 20.100.630.A.3 under the findings section for a Site Development permit. The project demonstrated conformance with the requirements of the permit as analyzed under the environmental review team's resolution which is attached to this memo as Exhibit A.

11. **Appeal Comment #11: Reference to nearby Aquino Project.**

    The project in question is on a much narrower street with different characteristics, taking this project and copying it here does not conform with the design guidelines or best practices. It is entirely inconsistent, incompatible and lacks any aesthetic harmony with historic homes along Gifford.

    Staff Response: The project is not near historic homes as noted in the Historic Resources Inventory map located on the City's website. The Historic Preservation Officer was also consulted during the initial review of the project and confirmed that no historic properties were adjacent to the project site. Thus, the project was not required to consider incorporating elements from the historic homes into the design under the Downtown Design Standards and Guidelines.

    Under state law, this Housing project is only subject to objective design standards, some of which were waived under State Density Bonus Law. The proposal was reviewed in accordance with the San Jose General Plan, San Jose Municipal Code, Council policies, Downtown Design Guidelines and California Environmental Quality Act. More detail is provided under Exhibit E for the findings for the categories mentioned above.

12. **Appeal Comment #12: Saturday Work**

    The project excludes concrete pours on Saturday. Please also include ground

excavation and any other soil work on the list of excluded items to be performed on Saturdays.

Staff Response: The applicant has stated they requested extended construction hours to reduce the overall construction time for this site. The project is subject to standard environmental permit conditions related to air quality, biological resources, cultural resources, geology and soils, paleontological resources, hazards and hazardous materials, hydrology and water quality, and noise to reduce and mitigate the temporary impacts of construction on surrounding properties

13. **Appeal Comment #13: The record does not support the Director's fire safety findings.**

Before approving the Site Development Permit, the Director was required by San Jose Municipal Code 20.100.630 to find that the project would not be detrimental to the public health, safety, or welfare or adversely affect surrounding properties. The administrative record does not support those findings.

The applicant's Fire Variance Application acknowledges that portion of the proposed building exceeds the California Fire Code's standards fire apparatus access requirements by locating exterior walls approximately 210 feet from fire apparatus access roads and eliminating the customary six-foot perimeter access path along the south and east property lines. The applicant therefore requested a Fire Department variance and proposed enhanced sprinkler protection as an alternative means of compliance.

The variance request is significant because it confirms that the approved design does not satisfy the standard fire access requirements without discretionary relief. Consistent with that unresolved issue, the approved permit defers compliance with applicable Fire Code requirements until the Building Permit stage rather than demonstrating that the requirement access issues had been resolved before discretionary approval.

Santa Rita Trust raised these concerns through written comments and public testimony requesting clarification regarding fire access, building separation, and life-safety measures. Those concerns remained unresolved when the Director approves of the Site Development Permit.

The question before the Planning Commission is not whether the project may ultimately comply with the California Fire Code. Rather, it is whether the Director has an adequate evidentiary basis to make the findings required by San Jose Municipal Code 20.100.630 at the time of approval. Because the record demonstrates that the project required a discretionary Fire Department variance while deferring resolution of crucial fire access issues to future potential review, the Director's findings regarding public safety and impacts on surrounding properties and not supported by the administrative record.

Staff comments: The Fire Department's review of 470 W San Carlos was limited to site review during the planning phase to determine whether the building was possible on a high-level. The final design of the building will need to conform with all the applicable codes. Fire review was limited to verifying compliance of the project to Chapter 5, Appendix B, Appendix C, and Appendix D of the 2025 California Fire Code (CFC) with City of San Jose Amendments. Compliance with all other applicable fire and building codes and standards relating to fire and panic safety are to be verified by the Fire Department during the Building Permit process. The concern raised falls partially under the scope of the Fire review of the Planning phase, and partially under the scope of the building phase.

The proximity to the property line was reviewed specifically for Fire Access. In San Jose, a six-foot-wide unobstructed access route is required with all portions of the 1st story of the building to be within 150 feet of the Fire Apparatus Access Road. This is in accordance with 2025 CFC section 503.1.1. The proposed building is deficient in that not all portions of the building are within 150 feet, and some portions are at the lot line. A deficiency like this is common in San Jose and is expected to be mitigated with additional fire safety features through a Fire Variance. The specifics of this variance and its mitigations have not been negotiated yet and will be addressed during the Building Plan Check stage. Any mitigation will need to be reviewed and engineered to the satisfaction of the Fire Chief. An approved variance will be required prior to the issuing of a Building Permit.

The proximity to the property line was not reviewed for construction details during this phase. These items are not part of the scope of the site review and will be analyzed during the Building Plan Check by both the Building Department and the Fire Department. The 2025 CBC provides code requirements regarding the fire rating of walls and number of openings permitted based on the construction type, occupancy (use), and proximity to other buildings and property lines. Examples of the code that will be used to verify these can be found in CBC Table 705.5 (Fire-resistance rating requirements for exterior walls based on fire separation distance) and Table 705.9 (Maximum area of exterior wall openings based on fire separation distances and degree of opening protection). There are additional code requirements that will affect the construction details of this building due to the zero-lot line and the codes provided were not meant to be an exhaustive list.

14. **Appeal Comment #14: The Density Bonus Waiver findings do not satisfy government code 65915.**

Government Code 65915 authorizes a waiver only where application of a development standard would physically preclude construction of the development at the permitted density.

The Director concluded that the requested waiver was justified because compliance with the Downtown Design Standards would reduce unit efficiency and eliminate approximately eight residential units as designed.

However, the administrative record contains no analysis demonstrating that compliance with development standard would preclude construction of the project, as the statute requires.

The record contains no evaluation of alternative building layouts, redistribution of floor area revised unit configurations, or other feasible design alternatives that would allow compliance while maintaining the project's residential density.

Instead, the findings address only project efficiency and preferred design.

Government Code 65915 requires more.

Because the administrative record does not demonstrate physical necessity, the statutory findings supporting the waiver are not supported by substantial evidence. (Willmer v. City of Berkeley (2011) 193 Ca; App. 4th 1329.)

Staff Comments: As mentioned above under Comment # XX, under State Density Bonus Law a city is precluded from applying any development standard to a project if it will physically preclude development at the density and with the concessions permitted by Density Bonus Law. This preclusion applies whether the applicant requests a waiver for that standard or not.

The applicant's request for five waivers is supported by a written justification demonstrating that application of the development standard would preclude development of the project as proposed. The applicant also submitted 45 pages of site plans showing the dimensions of the project in minute detail. The justifications and site plan together constitute more than enough substantial evidence to support the waivers. They are based on the geometry of the project with respect to each development standard. The city may only deny a waiver request on the basis that it will result in a "specific, adverse impact" on health or safety or a historical resource or is contrary to state law. No such evidence exists in the record to support such findings.

15. Appeal Comment # 15: The Director's Findings regarding Public Health and Safety are Premature.

Government section code 65915 permits limitation of waivers where there is substantial evidence of a specific adverse impact on public health or safety that cannot be satisfactorily mitigated. The administrative record identifies several issues requiring additional engineering review before construction may proceed.

The Final Public Works memorandum requires further geotechnical investigation,

grading review, retaining wall analysis, drainage design, stormwater review, and foundation recommendations before grading permits or Public Works clearance may be issued.

Santa Rita Trust advised the city that excavation would occur immediately adjacent to its existing commercial building and requested project-specific measures addressing structural protection, vibration, settlement, drainage, retaining walls, and construction impacts. Those concerns were reiterated during both the written comment process and the Director's public hearing.

Despite receiving notice of these concerns before approval, the permit does not require a project-specific Construction Protection Plan or identify engineering measures demonstrating how adjacent improvement will be protected during excavation and construction.

The issue is not whether these matters may ultimately be addressed during later permit review. The issue is whether the Director possessed sufficient evidence to conclude that the project would avoid unacceptable impacts to neighboring properties when the Site Development Permit was approved.

Staff Comments: The appellant confuses the City's burden for granting a waiver request with its burden for denying one. Under State Density Bonus Law, a city is not required to affirmatively find that a waiver will not result in a specific, adverse impact upon health or safety. Rather, if it chooses to deny a waiver request, it must find that the waiver would result in a specific, adverse impact upon public health or safety or it is contrary to state or federal law. Further, a specific, adverse impact upon health or safety is defined as "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." The administrative record indicates the project would not result in a specific, adverse impact on public safety or health that would require denial of a specific waiver or of the project, and the appeal does not provide any information contrary to staff's findings.

16. **Appeal Comment #16: The Director's traffic safety findings are not supported by substantial Evidence.**

    The Director found that the project provides safe vehicle and pedestrian access. The approved project includes 276 residential units, 217 parking spaces, mechanical parking systems, loading operations, rideshare activity, deliveries, and driveway access immediately adjacent to existing commercial property driveway access.

    The final Public Works memorandum relies upon Assembly Bill 130 to exempt the project from CEQA transportation analysis while simultaneously requiring operational measures related to garage access, vehicle stacking, warning devices, grading, and

future engineering review before permits may be issued Santa Rita Trust submitted written comments and public testimony identifying concerns regarding driveway conflicts, sight distance, construction traffic, access, and traffic flow adjacent to its commercial operations before the Director acted.

Although those concerns were raised during the prior approval process, the administrative record contains no engineering analysis evaluating driveway interactions, vehicle access, truck turning movements, or operational conflicts between the proposed project and the adjacent commercial property.

The record does not contain substantial evidence supporting the Director's finding that the project provides adequate and safe access as required by San Jose Municipal Code 20.100.630.

Staff Comments: Due to the project's eligibility for a state statutory exemption under state law, AB 130, the project is exempt from environmental review about transportation impacts based on VMT. The City of San Jose Council Policy 5-1 established a framework requirement of a CEQA Transportation Analysis for VMT impacts and a supplemental requirement of a Local Transportation Analysis (LTA) for effects on multimodal transportation, access, circulation, and related safety elements for consistency to the General Plan. Under state law AB 130, the project is ministerial exempt from CEQA, which overrides the City's requirements under Council Policy 5-1. Therefore, there is no LTA requirement for the project.

There are numerous conditions of approval for the Site Development Permit that address access and pedestrian safety, including among others, development of a Transportation Demand Management plan to the satisfaction of the San Jose Department of Transportation; monetary contributions to pedestrian, vehicle, and bicycle safety projects along W. San Carlos Street and Gifford Avenue; and installation of audible ad visual warning signs at the West San Carlos Street entrance /exit to warn pedestrians of approaching vehicles. The project is held to objective standards and policies that apply to other similar land use developments within the same zone. In this instance, Since the project is within the Diridon Specific Area Plan it is subject to the Diridon Station Area Infrastructure Impact and other standard conditions.

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY
Planning, Building and Code Enforcement

PLANNING DIVISION 05/20/2024 SUBJECT TO CHANGE

APPEAL OF ENVIRONMENTAL DETERMINATION APPLICATION

Per Municipal Code 21.07.040, the San José City Council will hear appeals to the environmental determination made by City staff at a project's public hearing. This application form must be completed as instructed below to facilitate the appeal.

WHO MAY APPEAL

Any person may file.

DEADLINE

File this completed application by **no later than 5:00 p.m. of the third business day** following the day of the public hearing that relied upon the Environmental Determination.

FEES & PROCESS

View the current fee for an Environmental Determination Appeal on the Table of Applications at www.sanjoseca.gov/PlanningApplications. The fees vary depending on whether you are a project applicant or non-applicant.

HOW TO SUBMIT - 2 OPTIONS

- **In-Person (no appointment required):** Before the filing deadline stated above, come to the Planning Offices, third floor of City Hall (200 E. Santa Clara Street, San José) to submit the application. You may pay the appeal fee in-person or staff may email you an invoice which must be paid within 14 calendar days of the invoice date for the appeal to be valid.
- **Email:** Before the filing deadline stated above, email the completed application and any attachments to PlanningTechs@sanjoseca.gov. If the appeal is timely and complete, staff will email you an invoice for the appeal fee, which must be paid within 14 calendar days of the invoice date for the appeal to be valid.

WHAT TO SUBMIT

☐ This application form, completed and signed. You must state with specificity the reasons that the Environmental Determination should be found not to be complete or not to have been prepared in compliance with the requirements of CEQA.

Only appeals that are based on issues that were raised at the public hearing or in writing prior to the public hearing will be considered.

City staff will set a public hearing date before the City Council; the appeal item will be placed on the agenda. Staff will also prepare a recommendation of action to the City Council.

FOR QUESTIONS

Speak with a City Planner at 408-535-3555; see phone service hours at www.sanjoseca.gov/Planning.

Para información en español, comuníquese con un Planificador de la ciudad al 408-793-4100.

Để được hỗ trợ, nói chuyện với Người lập kế hoạch thành phố tại 408-793-4174.

continued >

Please download and save this computer-fillable form to your computer. Follow instructions for Digital Forms.

The undersigned respectfully requests an appeal for the following environmental determination.

1. REASON/S FOR APPEAL: *If more space is needed, attach a separate sheet.*

This appeal concerns the environmental determination for "The Gifford" / Delmas Senior Living, File Nos. H25-039 and ER25-225, located at 470 West San Carlos Street, also identified in the record as 462–470 West San Carlos Street / 321–329 Gifford Avenue, APN 264-20-133. Appellant appeals the City's determination that the Project is statutorily exempt from CEQA pursuant to Public Resources Code section 21080.66 (Assembly Bill 130). The appeal challenges the City's conclusion that the Project satisfies the statutory requirements for the AB 130 exemption, the adequacy of the evidence supporting that determination, the reliance on unresolved or future environmental documentation and conditions of approval, and material inconsistencies in the administrative record concerning the environmental basis for project approval. See the attached Statement of Reasons for Appeal of Environmental Determination and the S+NI letters dated July 3 and July 13, 2026, which are incorporated by reference.

2. PERSON FILING APPEAL

PRINT NAME: Bert Weaver

MAILING ADDRESS: [redacted]

EMAIL: [redacted] PHONE: [redacted]

07/24/2026

● SIGNATURE OF PERSON FILING THE APPEAL DATE: [MM/DD/YYYY]

For electronic submittal or virtual appointments, a **Digital ID Signature** is required.
For in-person appointments, an original ink signature is required.

3. CONTACT PERSON IF DIFFERENT FROM PERSON FILING APPEAL

PRINT NAME:

MAILING ADDRESS:

EMAIL: PHONE:

STATEMENT OF REASONS FOR APPEAL OF ENVIRONMENTAL DETERMINATION

Project: The Gifford – File Nos. H25-039 and ER25-225

Appellant appeals the City's determination that the Project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080.66 (Assembly Bill 130).

This appeal does not challenge the Legislature's enactment of Assembly Bill 130 or the availability of the statutory exemption where its requirements have been satisfied. Rather, it challenges whether the City complied with the procedural and evidentiary requirements necessary to invoke the exemption by establishing, through substantial evidence contained in a complete and internally consistent administrative record, that the Project satisfied the statutory prerequisites before approval.

The central issue presented by this appeal is not whether Assembly Bill 130 may apply to this Project, but whether the City demonstrated that it did apply before approving the Project. The administrative record reflects an environmental basis for approval that evolved throughout project review while material aspects of the Project and supporting environmental documentation remained unresolved or internally inconsistent.

1. The Administrative Record Does Not Demonstrate That the Project Satisfied the Requirements of Public Resources Code Section 21080.66.

Before invoking the Assembly Bill 130 exemption, the City was required to determine that the Project satisfied all statutory requirements applicable to the exemption.

Rather than identifying the evidence supporting each required finding, the administrative record reflects changing project documentation, differing environmental analyses, unresolved environmental documentation of dirt stored on-site from nearby housing project, and permit conditions without clearly distinguishing which statutory requirements had already been satisfied and which obligations remained to be completed.

The City therefore failed to establish a complete and internally consistent record supporting its determination that the Project qualified for the exemption.

2. The City's Environmental Basis for Approval Changed Throughout Project Review Without Being Reconciled.

The City's environmental rationale evolved repeatedly during project review. At various times, the administrative record relied upon:

- The December 2020 Addendum;
- The December 23, 2025 environmental memorandum;
- The Downtown Strategy 2040 Environmental Impact Report;
- A proposed Local Transportation Analysis;
- Future revisions to environmental documentation; and
- Ultimately, the Assembly Bill 130 statutory exemption.

The final approval does not explain how these differing environmental analyses relate to one another or identify the evidence supporting the City's final determination. Instead, the administrative record reflects a continuously evolving environmental basis for approval rather than one coherent environmental determination supported by substantial evidence.

3. To the Extent the City Continues to Rely Upon Earlier Environmental Documents, Those Documents Do Not Analyze the Approved Project.

The December 2020 Addendum evaluated a six-story commercial senior living facility. The Project approved by the Director is an eight-story, 276-unit apartment building.

The approved Project differs materially with respect to:

- Land use;
- Occupancy;
- Building height;
- Unit count;
- Floor area;
- Parking configuration;
- Excavation;
- Transportation characteristics; and
- Construction activities.

To the extent the City continues to rely upon the earlier environmental documentation, the record does not explain why those analyses remain applicable to the Project ultimately approved.

4. The Administrative Record Contains Materially Different Building Height Determinations.

The administrative record contains multiple building-height calculations developed through differing measurement methodologies during project review.

Those differing calculations were never reconciled before approval. The City should identify the governing methodology, explain the differing calculations contained in the record, and clearly identify the factual basis supporting its final determination.

5. The Administrative Record Does Not Explain the Removal of the Local Transportation Analysis.

Earlier City review documents identified a Local Transportation Analysis for the Project. The final approval removed that requirement.

- The administrative record does not explain:
- Why the analysis was no longer required;
- Whether the removal resulted from Assembly Bill 130;
- Whether it resulted from another legal determination; or
- Whether any transportation review remained independently required.

Without that explanation, the administrative record does not provide a coherent basis for the City's final environmental determination.

6. The Administrative Record Should Clearly Demonstrate Compliance With Every Applicable Requirement of Assembly Bill 130.

If the City continues to rely upon Public Resources Code section 21080.66, the administrative record should clearly identify the evidence supporting each applicable statutory requirement, including project eligibility, site eligibility, general plan and zoning consistency, tribal consultation requirements, environmental assessment requirements, hazardous-materials requirements, applicable labor provisions, and any other statutory prerequisite upon which the exemption depends.

REQUESTED RELIEF

Appellant respectfully requests that the City Council grant the appeal, set aside the Assembly Bill 130 exemption determination, and remand the Project for further proceedings.

Before reconsidering the Project, the City should:

1. Prepare one complete and internally consistent environmental determination identifying the environmental documents upon which it relies;

2. Reconcile the changing environmental analyses contained throughout the administrative record;

3. Identify the evidence supporting each finding required by Public Resources Code section 21080.66;

4. Clarify the environmental documentation applicable to the stored dirt from the nearby housing project;

5. Resolve the differing building-height determinations and transportation review issues reflected in the administrative record; and

6. Conduct any additional environmental review required if the City cannot establish that the Project qualifies for the Assembly Bill 130 exemption.

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

July 24, 2026

Matt Bernardis
Urban Catalyst
99 S Almaden Boulevard, Ste 600
San Jose, CA 95113

Dear Matt Bernardis:

RE: **Site Development Permit, File No. H25-039 & ER25-225,** located on the **southwest intersection of West San Carlos Street and Gifford Avenue, (462-470 West San Carlos Street and 321-329 Gifford Avenue, APN: 264-20-133).**

The enclosed is your copy of the Planning Director's action on this Site Development Permit.

This permit may contain one or more conditions, such as revised plans, which must be met within a specific deadline. If conditions are not met the permit will automatically expire. Please read your permit carefully!

The Planning Director's action taken on this permit or any of the conditions of this permit may be appealed by the applicant to the Planning Commission by filing a Notice of Appeal and a $15,382.00 fee. The appeal must be submitted in person or by e-mail at planningtechs@sanjoseca.gov and presented on the Notice of Appeal form available from this department on or before **5:00 p.m, August 3, 2026.** If you have any questions, please contact the Project Manager, Jacqueline Guerrero (408) 535-8235or by e-mail at jacqueline.guerrero @sanjoseca.gov.

Sincerely,

Sylvia Do Fong,
Deputy

cc: Delmas Senior PropCo LLC
470 West San Carlos
San Jose, CA 95126

Enclosures

JG:hg

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

SITE DEVELOPMENT PERMIT

FILE NO.	**H25-039 & ER25-225**
LOCATION OF PROPERTY	**Southwest intersection of West San Carlos Street and Gifford Avenue, (462-470 West San Carlos Street and 321-329 Gifford Avenue, APN: 264-20-133)**
ZONING DISTRICT	**DC Downtown Primary Commercial Zoning District**
GENERAL PLAN DESIGNATION	**Downtown**
PROPOSED USE	**Site Development Permit to allow an eight-story residential building with 276 dwelling units, with five percent affordable units restricted to very-low-income, subject to the state Density Bonus Law, underground parking, and extended construction hours from 8:00 am to 5:00 pm Saturdays on an approximately 0.89-gross-acre vacant site.**
ENVIRONMENTAL STATUS	**Statutorily Exempt Pursuant to Public Resources Code Section 21080.66 (Assembly Bill 130)**
OWNER ADDRESS	**Delmas Senior PropCo LLC 470 West San Carlos San Jose, CA 95126**
APPLICANT ADDRESS	**Matt Bernardis Urban Catalyst 99 S Almaden Boulevard, Ste 600 San Jose, CA 95113**

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Project Description.**

   The project consists of a Site Development Permit to allow the construction of an eight-story residential building with 276 dwelling units, with five percent affordable units restricted to very-low-income, subject to the state Density Bonus Law, underground parking, on an approximately 0.89-gross-acre vacant site.

   The applicant submitted a concurrent application under the State Density Bonus Law (Government Code Section 65915). The project provides 14 units for very-low-income households. The project

requests five waivers related to the stepback plane, skyline-level massing, balconies, ground-floor residential space, and podium-level massing.

2. **Site Description and Surrounding Uses.** The subject site, approximately 0.89 gross acre, is located at the intersection of West San Carlos Street and Gifford Avenue, at 470 West San Carlos Street. The site is currently vacant. The site is surrounded by commercial uses to the north, east, and south, and residential uses along the north and west property lines. Vehicle access to the site is provided along West San Carlos Street and Gifford Avenue. There is a bus stop near the other corner of the block that the 23-bus line runs by.

3. **Permit Findings.** Permit findings with detailed analysis in the findings section.

   a. **Site Development Permit Findings.** Chapter 20.100.630 of Title 20 of the San José Municipal Code specifies the required findings for approval of a Site Development Permit.

      i. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and area development policies; and

      General Plan Consistency

      The subject site is designated as a **Downtown** on the land-use transportation diagram of the Envision San José 2040 General Plan. This designation includes office, retail, service, residential, and entertainment uses in the Downtown. Redevelopment should be at very high intensities unless there is an incompatibility with other major policies within the General Plan. All development within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. The maximum allowed Floor Area Ratio (FAR) is up to 30 and the density is 800 dwelling units per acre.

      Analysis: The project includes a 276-unit housing development with a density of 310 DU/AC, consistent with the General Plan designation's maximum density of 800 DU/AC. The applicant will restrict at least 14 of the 276 units to be affordable to very-low-income households, resulting in a density-increase allowance of up to 20 percent pursuant to Government Code Section 65915. The project is not opting to use the additional percentage to receive more units than allowed. More information about the Density Bonus application is available below.

      The project is consistent with the following General Plan policies:

      Major Strategy #3 - Focused Growth: The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified "Growth Areas" (Urban Villages, Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods.

      Growth Area Policy LU-2.1: Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.

Maximize Use of Public Transit Policy TR-3.4: Maintain and improve access to transit stops and stations for mobility-challenged population groups such as youth, the disabled, and seniors.

Housing Goal H-1: Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.

Housing Policy H-1.9: Facilitate the development, preservation, and rehabilitation of housing to meet San José's fair share of the County's and region's housing needs.

Policy H-2.1: Facilitate the production of extremely low-, very low-, low-, and moderate-income housing by maximizing use of appropriate policies and financial resources at the federal, state, and local levels; and various other programs.

Analysis: The project will provide 276 units, with 14 units restricted to very low-income households, increasing the City's overall housing supply. The project will add to the existing housing diversity in the surrounding neighborhood, which includes a variety of multifamily developments and single-family residential. The project is within the Diridon Station Area Plan (DSAP) and is approximately 0.6 miles from Diridon Station. The project would result in a high level of development on the subject site, consistent with the General Plan's major strategy and policies that support focused growth and development near transit. Therefore, the project is consistent with the General Plan policies above.

Diridon Station Area Plan (DSAP)

The parcel for the residential units is within the Southern Zone of the DSAP, with land use specified as Downtown. The FAR of this project is 5.9 and meets the maximum 30 FAR requirement. The building height is 84 feet and 10 inches, which is consistent with the 110-foot height limit for the area. Per section 20.200.510 of the municipal code, the height of the building is the vertical distance between the top surface and the "grade" immediately below it. The project will use a waiver under the State Density Bonus law to exempt it from the requirement to provide a building stepback plane from rear shared property lines, as noted in Figure 2-4-8a.

ii. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and

Zoning Ordinance Consistency

The subject site is in the **DC Downtown Commercial** Zoning District. The project is consistent with the district's use regulations pursuant to Section 20.70.100 and Table 20-140 of the San Jose Municipal Code (SJMC), as noted below.

Land Use

Multifamily dwelling units are allowed in the DC Zoning District if the project complies with the Development Standards related to residential use. The construction of the residential units will require the issuance of a Site Development permit, pursuant to Section 20.100.610.A.1.

Development Standards

Pursuant to Section 20.70.200, the following table sets forth the required development standards and the project's proposed setbacks and height, per the submitted plans. Properties

located within the DC Zoning District are subject to the height limitations necessary for the safe operation of San José International Airport, which are established by the Federal Aviation Administration. Properties located within the DC Zoning District are not subject to minimum or maximum setback requirements, pursuant to SJMC Section 20.70.210. It should be noted that the DSAP height limit of 110 feet takes precedence over the Zoning Code.

Setback Area	**Requirement**	**Proposed** (approximately)
Front, Fronting West San Carlos Street	No minimum	5 feet; Complies
Front, Fronting Gifford Avenue	No minimum	2 feet; Complies
Rear, South Property line	No minimum	0 feet; Complies
Rear, East property line	No minimum	0 feet; Complies
Maximum Height	110 feet per DSAP	84 feet 10 inches; complies

Transportation Demand Management ("TDM") and Parking

Vehicle Parking: Pursuant to SJMC Chapter 20.90, there is no minimum vehicle parking requirement, and the project provides 217 vehicle parking spaces. Based on Table 20-0250, under Section 20.90.910, the project is classified as a level one Home End Use with it providing more than 16 residential units and less than 299 residential units. The project requires a Transportation Demand Management Plan. The applicant is required to submit a final TDM plan to the satisfaction of the San Jose Department of Transportation as part of their conditions of approval.

Bicycle Parking: For residential use, the project is required to provide one bicycle space per four residential units, under Table 20-210 in Section 20.90. With 276 residential units, this calculates to 69 bicycle parking spaces.

Analysis: The project requires 69 bicycle parking spaces and provides 72 spaces. Long-term bike parking will be in a bike room on the first floor, and short-term parking will be in the public right-of-way along West San Carlos Street.

Two-Wheeled Vehicle (Motorcycle) Parking: Per Section 20.90.350, a two-wheeled motorized vehicle parking shall be provided at 2.5% of standard vehicle parking provided.

Analysis: The project provides 217 vehicle parking spaces; therefore, six two-wheeled vehicle parking spaces are required. The project provides six motorcycle parking spaces that meet the requirement above.

Off-Street Loading Spaces: Pursuant to SJMC Section 20.70.435, multifamily use of 200 units or more but less than five hundred units shall provide two off-street loading spaces. Pursuant to SJMC Section 20.90.420 and Section 20.90.430, each off-street loading space shall be at least 10 feet wide, 30 feet long, and 15 feet high and shall be accessible by driveways for ingress and egress.

Analysis: The project provides two off-street loading spaces, meeting the required number. The space does not meet the height requirement as the vehicle entrance is 10 feet. The loading space does not meet the 15 feet clear height as required by Section 20.70.420 of the Zoning Code. To allow twelve feet of height for the loading space, the project is conditioned to only allow Class 4 thru Class 6 delivery trucks in the parking garage loading area. The applicants will also apply for an on-street loading space along West San Carlos Street via a separate Public Works permit process.

iii. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

City Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposals

The project is consistent with City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals. Two on-site signs have been posted at the site, facing West San Carlos Avenue and Gifford Avenue since February 6, 2026. The surrounding property owners and tenants within a 1,000-foot radius were notified, who attended a Community Meeting held on May 4, 2026, via Zoom. Notices for a public hearing were mailed to property owners within a 1,000-foot radius of the project site. Staff have been available to answer any questions from the public.

iv. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The new multifamily residential building fronts both West San Carlos Street and Gifford Avenue. Sidewalks along both streets provide pedestrian access to the site. The project design includes a glass mural at the street corner to emphasize the project. Blue stucco is used throughout the design to help break up the project's mass. Balconies are proposed on the north, south, and west building facades to add visual interest and keep the eye moving along the building. The project's architectural design incorporates elements consistent with the Citywide Design Standards and Guidelines. Therefore, the multifamily building is compatible with and aesthetically harmonious with other on-site uses. The site provides vehicle and bicycle parking inside the building and on the adjacent public right-of-way, and all on-site uses are mutually compatible and aesthetically harmonious.

v. The orientation, location, and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

The project is consistent with the Downtown Design Guidelines. Applying these Guidelines ensures that relationships among structures and with other on-site uses are both functional and attractive. The project shares a similar design intent and architectural language with the nearby Aquino Project, approved under File No. SP20-019 and addenda. The ground-floor height is 15 feet and four inches; the adjacent building's height from the ground to the top of the ridge is 15 feet, reflecting the scale of neighborhood buildings at the podium and pedestrian levels. The project creates a welcoming pedestrian level, with residential units on the ground floor having front doors along Gifford Avenue, consistent with the residences along Gifford Avenue. The project design is compatible with the surrounding neighborhood, as noted above.

- Section 3.3, Standard 'a' – Place Active Uses along the edges of Public Space at the pedestrian level and not toward internal site spaces, unless all requirements for active Frontages on Public Spaces have been met (see Section 5.3.1.a.)

  Analysis: The residential lobby is currently located near the corner of Gifford Avenue and West San Carlos Street, accessible from the public sidewalk, consistent with the requirement.

- Section 3.5.1, Standard 'a' – Connect the primary pedestrian and bicycle building access directly to a public sidewalk, Public Open Space, or paseo, uninterrupted by a parking lot or vehicular circulation. See Section 5.5.2 Vehicle and Service Entry Design for information about Porte Cocheres and primary pedestrian entries.

  Analysis: Access to the building as a pedestrian or bicyclist will be through the main lobby entrance; the project complies with this requirement.

- Section 4.4.1, Standard 'b' - Do not use strong expressions of horizontal or vertical elements that emphasize the facade more than the overall building form or structure, such as a projecting fin that does not serve a function like shading or control of the wind.

  Analysis: The current stucco proposal uses blue vertical stucco stripes to break up the building's massing and create visual movement along the façade. The building's corner at the intersection of Gifford and West San Carlos serves as a prominent visual element.

- Section 4.4.3, Standard 'a' - At the Pedestrian Level, use elements of stone, pre-cast concrete, terra cotta, masonry, or cast stone in addition to any other materials such as metal and glass.

  Analysis: The pedestrian level uses metal and glass elements in the storefront system, as shown on sheet AP3.00. These materials will help create an active frontage at the pedestrian level.

vi. The environmental impacts of the project, including but not limited to noise, vibration, air quality and dust, biological resources, water quality and storm water runoff, drainage, erosion, and odor, which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Analysis: The project is located within an already urbanized area that is served by all necessary public and private utilities. The project is residential in nature and therefore would not be a generating source for excessive noise or odor. All construction activities would be temporary, and the construction hours are limited to between 7:00 a.m. and 7:00 p.m., Monday through Friday, within 500 feet of residential uses. Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 8:00 a.m. to 5:00 p.m with no concrete pours on Saturday. The project will be required to adhere to standard building and grading permit conditions. The project is also required to adhere to standard environmental permit conditions related to air quality, biological resources, cultural resources, geology and soils, paleontological resources, hazards and hazardous materials, hydrology and water quality, and noise to reduce and mitigate the temporary impacts of construction on surrounding properties.

The project is subject to Public Works requirements regarding sidewalk improvements, stormwater capture and drainage, and approval of the project would not result in any significant effects relating to traffic. Additionally, this project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29), which requires the implementation of Best Management Practices (BMPs) that include site design measures, source controls, and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges, per Public Works Final Memo dated July 09, 2026, and the project will not have an unacceptable negative effect to the surrounding environment.

vii. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility, and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The project includes both common and private open space for residents of the building. The common open space comprises a landscaped courtyard that serves as a social area for residents. Trash pickup will occur at the front along West San Carlos on the project's designated trash pickup day. Street trees will be planted along both street frontages to provide shade for pedestrians and soften the building's appearance.

viii. Traffic access and pedestrian access are adequate.

Analysis: Pedestrian access to the site will be via West San Carlos Street, and bicycle parking spaces will be located within a ground-floor room near the building's lobby entrance. There are two entrances along each street that provide access to the site. Vehicles will be parked in the site's ground-floor parking garage.

b. **State Density Bonus Law Findings.** The project includes an application pursuant to the State Density Bonus Law (Government Code Section 65915). The project provides 14 units for very-low-income households. The Downtown General Plan land use designation allows residential density at 800 dwelling units per acre, equivalent to 714 base units. Pursuant to Government Code Section 65915(f)(2) and Government Code Section 65915(v)(1)(B), the project is eligible for a 20% density bonus, or 143 additional units. The project proposes 276 units and will not use the bonus to provide additional units.

i. **Incentives/Concessions.** Projects that are eligible for a density bonus are also eligible to pursue incentives and concessions, such as reductions in development standards to facilitate the economically viable construction of affordable housing. The applicant qualifies for one incentives/ concessions per Government Code Section 65915. The project did not request an incentive.

ii. **Waivers**. Projects that are eligible for a density bonus are also eligible to pursue waivers to development standards if the standard being waived would physically prevent project from being built with the allowed number of units. The project qualifies for unlimited waivers. The project has requested five waivers, as follows:

1) **Waiver one.** Per the Diridon Station Area plan, the east side of the project is subject to the lot line stepback plan per figure 2-4-7. The east property line is shared with an adjacent lot and has a 0 setback per zoning. A stepback plane must begin at a height of 35 feet, with a 6-foot stepback at a 75-degree angle from the horizontal.

Analysis: The project provides a 10-foot stepback beginning at 15 feet in height. Full compliance with the stepback plane would significantly reduce unit sizes on floors 6 through 8. Compliance with this requirement would result in the loss of eight units. As a result of the waiver request, the stepback plane requirement has been waived, allowing the project to construct all units as proposed.

2) **Waiver two**. Skyline Level Massing. Per the San Jose Downtown Design Guidelines and Standards, Section 4.3.2, for facades above 70 feet and wider than 200 feet, projects must include a change in massing (stepback or notch) at least 30 feet wide and 20 feet deep to reduce apparent bulk.

   Analysis: The Gifford Avenue façade length is approximately 230 feet, requiring a change in massing. The project provides a 38-foot-wide by 3-foot-deep notch along Gifford Avenue. Providing the required 30-by-20-foot notch would result in a loss of at least six units as designed. As a result of the waiver request, the skyline-level massing requirement has been waived, allowing the project to construct all units as proposed.

3) **Waiver three**. Per the San Jose Downtown Design Guidelines and Standards, Section 4.4.2.C, at least 50% of podium-level (below 70 feet) street-facing residential units must include balconies. Each balcony must be at least 4 feet deep by 20 feet wide.

   Analysis: Of the 81 podium-level street-facing units along Gifford Avenue and West San Carlos Street, strict 50% compliance would require at least 41 qualifying balconies. The project provides 20 balconies, each approximately 6 feet 6 inches by 12 feet, for a total of approximately 1,560 square feet of balcony area. Full compliance would require approximately 3,280 square feet of balcony area, leaving a shortfall of approximately 1,720 square feet. Using the project's approximately 420-square-foot studio module, this additional required balcony area is equivalent to approximately 4.1 studio units, and would therefore result in a loss of at least four units. Full compliance would therefore physically preclude the project as designed by reducing residential yield and making the affected unit layouts infeasible. As a result of the waiver request, the balconies requirement has been waived, allowing the project to construct all units as proposed.

4) **Waiver four**. Per the San Jose Downtown Design Guidelines and Standards, Section 5.3.3, Ground-floor residential units must be elevated 2 feet to 3 feet above grade to provide adequate separation from public space. The project provides ground-floor unit entries at grade level adjacent to open space.

   Analysis: Raising the ground-floor units would require additional interior and exterior ramps to maintain accessibility, consuming valuable building space and reducing the square footage by at least one unit. As a result of the waiver request, the ground-floor residential space has been waived, allowing the project to construct all units as proposed.

5) **Waiver five**. Per the San Jose Downtown Design Guidelines and Standards, Section 4.3.1, Podium-level building massing facing a public space that results in a façade wider than 100 feet must be divided into visibly articulated smaller masses no wider than 80 feet. This may be achieved through projections and recesses, material changes, shadow relief, or other architectural elements.

   Analysis: Introducing an additional recessed area to keep façade segments under 80 feet would reduce residential unit area by approximately 540 square feet, equivalent to at

least one unit. As a result of the waiver request, the podium-level massing has been waived, allowing the project to construct all units as proposed.

Chapter 20.190.090 of the San José Municipal Zoning Code requires that any project with a Density Bonus, incentives, or development standard waivers must make the following findings:

i. The Housing Development is eligible for a Density Bonus and any Incentives, waivers or modifications requested.

Analysis: The project is entirely residential, consisting of at least 14 affordable rental units, and is therefore eligible for the State Density Bonus Law for affordable housing projects.

ii. If the Density Bonus is based on all or in part on donation of land, a finding that all the requirements for a land transfer Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: The project does not include a land donation.

iii. If the Density Bonus or Incentive request is based all or in part on the inclusion of a Child Care Facility, a finding that all of the requirements for a Child Care Facility Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: The project does not include a Child Care Facility.

iv. If the Incentive request is for a Mixed-Use development, a finding that all the requirements for a Mixed-Use Incentive development approval that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: Not applicable to the project scope of work.

v. If the Incentive includes a request for approval of condominium conversion, a finding that all the requirements for a condominium conversion Incentive that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: The project does not include a request for condominium conversions.

In accordance with the findings set forth above, a **Site Development Permit** for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of the said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
   a. Acceptance of the Permit by the Permittee; and
   b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.

2. **Permit Expiration.** This Permit shall automatically expire two (2) years from and after the date of issuance hereof by the Director of Planning, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Senate Bill 330 Expiration**. The Senate Bill 330 Vesting shall automatically expire two (2) and one half years from and after the date of issuance of the "final approval" for the Project as defined by and pursuant to California Government Code Section 65589.5(o)(2)(D), if within such time period, the Project has not "commenced construction", as that term is defined and interpreted pursuant to California Government Code Section 65589.5(o)(2)(D).
4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility- represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
6. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Site Development Permit plans entitled, "THE GIFFORD (H25-039), 325 Gifford Ave, San Jose, CA 95126" dated April 27th, 2026 and civil set dates June 30th, 2026 on file with the Department of Planning, Building and Code Enforcement ("Approved Plans"), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
7. **Permit Adjustment.** The applicant must file for a permit adjustment to add an additional balcony column on Gifford Avenue and change the balcony color/face to a wood-like grain instead of blue.

8. **Delivery Trucks.** All delivery trucks entering the parking garage shall be limited to Class 4 to Class 6 trucks that can clear a 12-foot ceiling height and turning radius in the parking garage; larger trucks
9. **Density Bonus Regulatory Agreement**. Prior to the issuance of the first Building Permit for new construction, the Permittee shall submit a Permit Adjustment Application and enter into a Density Bonus Regulatory Agreement with the City. The final Regulatory Agreement, as amended and as approved by the City Attorney and by the Director of Planning, Building, and Code Enforcement, shall be recorded in the Office of the County Recorder by the City. This Permit shall take effect upon the date of recordation of the Density Bonus Regulatory Agreement in the form approved by the City and shall have no force and effect prior to that date.
10. **Extended Construction Hours.** Normal construction hours within 500 feet of a residential unit are between 7:00 a.m. and 7:00 p.m., Monday through Friday. Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 8:00 a.m. to 5:00 p.m with no concrete pours on Saturday. Permitted work activities shall be conducted within the interior of enclosed building structures and the exterior of the building structures. Exterior generators, water pumps, compressors and idling trucks are not permitted. Permittee shall be responsible for educating all contractors and subcontractors of said construction restrictions. The Director of Planning, Building, and Code Enforcement, at their discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the Permittee.
11. **Construction Disturbance Coordinator**. Rules and regulations pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
12. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
13. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
14. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
15. **Conformance with Previous Permits.** Per the previously approved permit for File No. CP20-019, seven ordinance-size trees and 14 non-ordinance trees were removed during grading. The project is required to provide a total of 50 replacement trees at 15-gallon size or 25 trees at 24-inch box size. Prior to the issuance of building permit(s), the permittee shall pay Off-Site Tree Replacement Fee(s) to the City for the total number of required replacement trees minus the number of trees shown on the Building Permit Landscape Plans in accordance with the City Council approved Fee Resolution in effect at the time of payment.
16. **Tree Replacement Enforcement**. Failure to plant trees in conformance with the Approved Plan set may be subject to in lieu fees in accordance with the City Council approved Fee Resolution in effect at the time of payment per 15-gallon tree for trees not planted on-site.
17. **Verification of Planting of Replacement Tree(s).** After payment of the in-lieu fee and/or the planting of required replacement trees on-site, the permittee shall provide appropriate evidence, such as but not limited to photographs and/or receipts, to the Planning Project Manager to verify

compliance with the tree replacement mitigation requirements. Such evidence shall be uploaded to www.sjpermits.org using these instructions:

a. How to set up an account: https://www.sanjoseca.gov/business/development-services-permit-center/online-permits-at-sjpermits-org and

b. How to upload: https://www.sanjoseca.gov/home/showpublisheddocument/88853/638088605255430000

c. Such evidence shall also be emailed to the Planning Project Manager and labeled File No. H25-039.

18. **Replacement Tree Failure**. On-site replacement trees that fail within three years after planting shall be promptly replaced per Section 13.32.110.E of the San Jose Municipal Code.

19. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans. The permittee, at their discretion, may submit changes to the Approved Landscape Plans with the issuance of a Permit Adjustment, before the issuance of Building Permits.

20. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.

21. **Certification**. Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.

22. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.

23. **Building and Property Maintenance**. The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.

24. **Nuisance**. This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.

25. **Anti-Graffiti**. All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.

26. **Anti-Litter**. The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts, and garbage.

27. **Refuse**. All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.

28. **Outdoor Storage**. No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.

29. **Street Number Visibility**. Street numbers of the buildings shall be easily visible from the street at all times, day and night.

30. **Utilities**. All new on-site telephone, electrical, and other service facilities shall be placed underground.

31. **Mechanical Equipment**. The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment require the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building, and Code Enforcement.

32. **No Generators Approved**. This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators would require the permittee to secure appropriate permits and conform to the regulations of Title 20 of the Municipal Code.

33. **Fence Standards**. Fences shall be erected in accordance with the standards established on the Approved Plans. Changes to the approved fencing shall comply with Section 17.24 of the City of San José Municipal Code, as may be amended.

34. **Stormwater Stenciling.** All storm drain inlets and catch basins shall be stenciled with the "NO DUMPING - FLOWS TO BAY," applied to the top and/or face of the curb next to the storm drain inlet. The development maintenance entity and/or property owner shall ensure that all storm drain inlet markings located on privately-maintained streets within the property are present and maintained.

35. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement.

36. **Housing Department Conditions under the Inclusionary Housing Ordinance.** Residential Developments proposing to construct or modify ten (10) or more residential units are subject to the Inclusionary Housing Ordinance ("IHO") and must submit an Affordable Housing Compliance Plan ("AHCP").

    a. **Mixed Compliance with Rental Inclusionary Units On Site SJMC 5.08.525**

    The proposed residential development will consist of a total of 276 rental dwelling units. The project proposes to comply through the Mixed Compliance option, providing 5% of the units (14 units) as on-site inclusionary rental units restricted to Affordable Rent for households earning no more than 50% AMI, in exchange for a reduced in-lieu fee rate. The project is located within the Central IHO area, which is considered a strong market, and is therefore subject to an in-lieu fee rate of $11.69. The proposed development will provide a total of 163,033 square feet of rentable space and, based on the Fiscal Year 2025–2026 fee schedule, will be subject to a fee of $1,905,855.77.

If Multifamily Housing Incentive Program or Downtown Residential Incentive Program allocations remain available at the time of building permit application, and the applicant demonstrates compliance with the program requirements, the City Council may consider reductions to IHO obligations and the Construction Tax. Additionally, the Housing Department is in discussions with the developer about a future opportunity to master-lease additional affordable units in the project.

To account for inflation in affordable housing development costs the in lieu fee shall be increased on July 1 of each year by the Engineering News Record ("ENR") Construction Cost Index for the San Francisco. Applicant must pay the adjusted in-lieu fees applicable at the time after recording an Inclusionary Housing Agreement, but prior to receiving its certificate of occupancy. All projects subject to the IHO that select to provide Inclusionary Units must comply with the following timing of construction and Inclusionary Unit standards pursuant to the IHO and IHO Guidelines:

i. Completion of Inclusionary Units prior to or at the same time as Market Rate Units in the same Residential Development ("Market Rate Units");

ii. Dispersal throughout the Residential Development so as not to create a geographic concentration;

iii. Same exterior design and quality of construction as Market Rate Units;

iv. Functionally equivalent parking when parking is provided to Market Rate Units;

v. Functionally equivalent interior finishes and features as Market Rate Units;

vi. Same amenities, access to common areas, and facilities as Market Rate Units;

vii. Same proportion of unit types as Market Rate Units;

viii. Comparable square footage of at least 85% of average square footage per unit of Market Rate Units based on bedroom size;

ix. Same bedroom count ratio as Market Rate Units.

Unit Mix

	Market Rate Units		**Affordable Units 50% AMI**		
Unit Type	**NRSF**	**Total Units**	**NRSF**	**Total Units**	**Total Units**
Studios	468	71	480	4	75
1 Bedroom	540	128	514	7	135
2 Bedroom	835	63	750	3	66
Total		**262**	**Total**	**14**	**276**

b. **Actions Required for Housing Department's Clearance for Demolition Permit(s), Building Permit(s) or Map Approval**

Conditions for projects subject to the IHO

Prior to the first to occur of (a) approval of any final map, (b) approval of any parcel map, or (c) issuance of any building permit for a residential development the Inclusionary Housing Agreement must be recorded (senior to all deeds of trust) on the land including all parcels needed to implement

the project's residential uses and affordable housing obligation including contiguous property under common ownership and control.

c. **Actions Required for Housing Department's Clearance of Final Inspection and Issuance of Certificate of Occupancy**

Conditions for projects subject to the IHO

No Final Inspection Approval, Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units will be issued until all requirements of the Inclusionary Housing Agreement, Inclusionary Housing Ordinance and Guidelines are met and an unsubordinated deed-restriction is recorded, if applicable.

37. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: http://www.sanjoseca.gov/devresources.

a. **Construction Agreement**: The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements in accordance with adopted standards in the City of San Jose Municipal Code Chapters 27.38 and/or 19.32. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

b. **Transportation:** This project is a Housing Development project and qualifies for a statutory Exemption under Assembly Bill 130 (AB 130). In conformance with AB 130, this project meets the requirement for ministerial exemption from a CEQA transportation analysis. The project may be held to objective standards and policies that apply to other similar land use developments within the same zone.

i. Provide installation of audible and visual warning signs at W San Carlos Street garage entrance/exit and a minimum of 50-feet at-grade clearance from gate access to back of walk to allow for stacking of at least two (2) vehicles or confirm that the gate will remain open during the peak inbound trips/PM peak period (typically 4-6 PM).

ii. Submit a final Transportation Demand Management (TDM) Plan to the satisfaction of the San Jose Department of Transportation prior to Building Permit approval. The final TDM Plan shall include the following measures and shall be implemented prior to the Certificate of Occupancy:

1) Right-Size Off-Site Vehicle Parking Supply (PK-01)

2) Provide Education, Marketing, and Outreach (TP-04)

3) Provide Targeted Behavior Interventions (TP-15)

4) Unbundle Parking Costs from Individual Property Costs (TP-16)

5) Provide Voluntary Travel Behavior Change Programs (TP-18)

c. **Diridon Station Area Infrastructure Impact Fee:**

i. Associated with the implementation of the Diridon Station Area Plan (Chapter 14.35 of Title 14 of the San Jose Municipal Code) this project is subject to the City's Diridon Station Area

Basic Infrastructure Impact Fee. Projects located within the Diridon Station Area are required to pay an impact fee in categories of Transportation, Plaza, Sanitary Sewer and Storm Drainage.

ii. The 2026 Infrastructure Impact Fee, that includes all infrastructure categories, is $7.45 per s.f. of Office/R&D, $4.91 per s.f. of Retail, $3,630 per Hotel room and $3,389 per residential unit. This fee is subject to an annual escalation on January 1st per the Engineering News-Record (ENR) Construction Cost Index for San Francisco. This fee must be paid prior to issuance of Public Works Clearance. Credits will be applied for any infrastructure built as identified in the Diridon Nexus Study by the developer.

d. **Urban Village Plan:** This project is located in a designated Urban Village per the Envision San Jose 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth.

e. **Grand Boulevard:** This project fronts San Carlos Street/Stevens Creek Boulevard which is designated as one of the seven Grand Boulevards per the Envision San Jose 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.

f. **Grading/Geology:**

i. A grading permit is required prior to the issuance of a Public Works Clearance.

ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit an engineered design for Public Works approval designed to convey a 10-year storm event in accordance to the City of San Jose Design for Storm Drains design requirements.

iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

iv. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

g. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment

measures to minimize stormwater pollutant discharges.

i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29 before building permit issuance.

ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

iii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.

iv. Media Filter Unit(s) located within Building footprints must conform to Building Division Directive P-005 located at the following: http://www.sanjoseca.gov/home/showdocument?id=27405

v. Applicant will sign an Operations and Maintenance Agreement for any stormwater media filters located outside the right-of-way, but treating public stormwater.

h. **Stormwater Peak Flow Control Measures**: The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

i. **Flood Zone D**: The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.

j. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

k. **Parks**: This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land" and/or "Schedule of Fees and Credits" contained within in the chapter.

l. **Street Improvements:**

i. Construct curb, gutter, and 15' attached sidewalk with tree wells at back of curb along San Carlos Street frontage.

ii. Construct curb, gutter, and 10' attached sidewalk with tree wells at back of curb along Gifford Avenue frontage.

iii. Close unused driveway cuts.

iv. Construct a 26' driveway on Gifford Avenue per CSJ Standard Detail R-5.

v. Install handicap ramp at the SW corner of San Carlos Street and Gifford Avenue.

vi. Provide 3" conduit along San Carlos Street frontage to connect to future traffic signals.

vii. Contribute $55,000 towards future multi-modal pedestrian improvements.

viii. Contribute $18,000 for signal upgrades for High-Visibility Backplates (HVBP) and Accessible Pedestrian Signals (APS) at San Carlos St & Delmas Ave.

ix. Contribute $144/LF of W San Carlos frontage for future bike facility improvements per CSJ 2025 Better Bike Plan.

x. Coordinate with Address Assignment Staff (Sara.Dominguez@sanjoseca.gov Sr Bldg Permit Specialist) to change address assignment to San Carlos to eliminate inclusion in RPP.

xi. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.

xii. Dedication and improvement of the public streets, as required, by the Director of Public Works in accordance with adopted standards in the City of San Jose Municipal Code Chapters 27.38 and/or 19.32.

xiii. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans in accordance with adopted standards in the Section Chapter 13.36.030, Title 19 and Title 27 of the City of San Jose Municipal Codes.

m. **Downtown Construction:** This project is located within the General Plan Downtown Growth Area or the Diridon Station Area Plan and will be required to comply with the Downtown Construction Guidelines (DCG). The DCG is for all work in the Public Right-of-Way to support the safe and orderly movement of people and goods by providing standards. The DCG serves as a guideline related to permits, coordination, and traffic control devices to entities performing work in downtown streets. A copy of the DCG can be found at: https://www.sanjoseca.gov/home/showdocument?id=56303.

n. **Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures)**: At the Implementation stage, Developer shall provide to the Public Works Project Engineer a Site Utilization Plan with the application of a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.

i. The following should be included with the Site Utilization Plan and Revocable Permit application, but are not limited to:

1) **Site Utilization Plan and Letter of Intent**: The site utilization plan should provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent should provide a description of operations of the site as well as the reasons for the sidewalk/lane closures and why the activities/uses that are proposed within the Public right-of-way can't occur within the construction site. These include the use of the right of way for temporary facilities and activities such as man lifts, baker tanks, staging area, concrete pumping activities, etc. The letter must also provide a detailed discussion if covered pedestrian walkways are infeasible (ex. swinging loads over the sidewalk are not safe for pedestrians).

2) **Multi-Phased Site Specific Sketches**: These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work

to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.

ii. Developer shall minimize the potential impact to vehicular and pedestrian traffic by:

1) Implementing the closures at the time the onsite activities dictate the need for the closure.

2) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlined in condition a.ii above.

iii. If the proposed lane and parking closures are a part of the Revocable Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at: http://www.sanjoseca.gov/?navid=1629. Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.

o. **Electrical**: Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

p. **Street Trees**: The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip on Gifford Avenue and in cut-outs at the back of curb on San Carlos Street. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

i. Gifford Avenue: The recommended street trees are Tristaniopsis laurina planted 20' on center in tree wells.

ii. West San Carlos Street: The recommended street trees are Carpinus betulus 'Fastigiata' planted 30' on center in tree wells.

38. **Integrated Waste Management Division Clearance for Building Permit(s):** Prior to issuance of Building Permits, the Permittee shall demonstrate compliance with all outstanding requirements for solid waste management to the satisfaction of the Environmental Services Department – Integrated Waste Management Division. Any changes to the Approved Plans shall require the issuance of a Planning Permit Adjustment or Amendment. The following conditions must be satisfied:

a. **Dumpster Staging**: IWM staff are concerned with where the dumpsters will be staged for collection. This staging area is currently used for on-street parking. Permittee agrees to either pay haulers the premium rate for push/pull collection service or collaborate with the Department of Transportation and work out a schedule that will prevent cars from parking in the staging area.

i. **Prioritization of Trash Staging will be on West San Carlos Street**. The following conditions will need to be satisfied:

1) Swap of the curb stripping on San Carlos, such that the loading zone is adjacent to the driveway where the trash will conceivably be wheeled out from, and

2) Commitment that dumpsters will be staged in the loading zone and not block a travel lane.

Please coordinate with Integrated Waste Management, Public Works, and Department of Transportation for this item.

39. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

    a. *Construction Plans.* This permit file number, H25-039, shall be printed on all construction plans submitted to the Building Division.

    b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).

    c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

    d. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project Permittee shall submit an addressing plan for approval for the subject development. The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit numbers off of a primary street).

    e. *Other*. Such other requirements as may be specified by the Chief Building Official.

40. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2025 California Fire Code, or as may be amended or updated by the City.

41. **Standard Environmental Permit Conditions.**

    a. **SPC AIR-1: Bay Area Air District Dust Control Best Management Practices.** The permittee shall include the following measures on approved construction plans and implement the following Bay Area Air District (Air District) dust control requirements during construction of the project:

        i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times a day.

        ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

        iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

        iv. All vehicle speeds on unpaved roads shall be limited to 15 miles-per-hour.

        v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

        vi. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 miles-per-hour.

        vii. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.

viii. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a six to 12-inch compacted layer of wood chips, mulch, or gravel.

ix. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than two minutes (a five-minute limit is required by the State airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.

x. Low volatile organic compounds (i.e., reactive organic gases) coatings that are used shall comply with the Air District's Regulation 8, Rule 3: Architectural Coatings.

xi. Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.

b. **SPC AIR-2: Tier 4 Final Equipment.** The permittee shall commit to using Tier 4 Final (or equivalent) equipment.

Construction Equipment Air Quality Controls. Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the permittee shall submit a Construction Operations Plan to the Director of Planning, Building and Code Enforcement or Director's designee that includes information in sufficient detail as to how the permittee and/or its contractor shall meet the following equipment requirements. The plan shall include the following information: 1) Type of equipment, 2) engine year and age, 3) number of years since rebuild of engine (if applicable), 4) type of fuel used, 5) engine horsepower, and 6) Verified Diesel Emission Control Strategy information, if applicable, and other related equipment data. The Construction Operations Plan shall be accompanied by a letter signed by a qualified air quality specialist confirming construction equipment will meet the criteria outlined below.

i. Engine Requirements: Verification that the equipment included in the plan meets the standards set forth below:

1) All construction equipment (larger than 25 horsepower) shall, at a minimum, meet U.S. Environmental Protection Agency Tier 4 final or interim emission standards for particulate matter (PM10 and PM2.5).

2) Use of alternatively fueled or electric equipment that achieves a comparable reduction of diesel particulate matter, PM10, and PM2.5 as equipment that meets Tier 4 final or interim emission standards.

ii. Exceptions: If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower shall meet U.S. Environmental Protection Agency emission standards for Tier 3 engines and include particulate matter emissions control equivalent to California Air Resources Board Level 3 verifiable diesel emission control devices that altogether achieves a comparable reduction of diesel particulate matter, PM10, and PM2.5 as equipment that meets Tier 4 final or interim emission standards.

1) As an alternative to the measures above, the permittee may request a plan from a qualified air quality specialist that reduces on- and near-site construction diesel particulate matter emissions from the project that would result in a comparable reduction of DPM, PM10, and PM2.5 as equipment that meets Tier 4 final or interim emission standards. The plan

shall be submitted to the City of San José Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any tree removal, demolition, grading, or building permits (whichever occurs earliest).

2) Limits on Idling Time: The permittee shall require the idling time for off-road and on-road equipment be limited to no more than two minutes, except as provided in exceptions to the applicable State regulations regarding idling for off-road and on-road equipment. Legible and visible signs shall be posted in English and Spanish in designated queuing areas and at the construction site to remind operators of the two-minute idling limit.

iii. Certification: A Certification Statement shall be provided by the permittee for documentation of compliance and for future review by the Bay Area Air District and City of San José Director of Planning, Building and Code Enforcement or the Director's designee, as necessary. The Certification Statement shall state that the permittee will ensure that their construction contractor will comply with the conditions above and acknowledges that this requirement is also a condition of project approval.

c. **SPC AIR-3: Implement Enhanced Dust Control Best Management Practices.** The permittee shall implement the following Bay Area Air District enhanced best management practices for dust control measures and include the measures on all approved construction plans:

i. Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities.Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.

ii. Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible and watered appropriately until vegetation is established.

iii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.

iv. Minimize the amount of excavated material or waste materials stored at the site.

v. Hydroseed or apply non-toxic soil stabilizers to construction areas, including previously graded areas, that are inactive for at least 10 calendar days.

d. **SPC AIR-4: Construction Air Quality Health Risk Assessment.** Prior to the issuance of any demolition, grading and/or building permits, the permittee shall retain a qualified air quality consultant to prepare an assessment demonstrating that none of the following would occur:

i. Total diesel particulate matter emissions are less than 65 pounds and the nearest receptors are single-family residences;

ii. Total diesel particulate matter emissions are less than 24 pounds and the nearest receptors are multi-family residences; and

iii. The nearest sensitive receptors are more than 200 feet downwind from the project.

iv. If the Construction Air Quality Health Risk Assessment demonstrates that these conditions are satisfied, a Construction Air Quality Health Risk and Construction Criteria Assessment (SPC AIR-5) would not be required for the project. The applicant shall submit the Construction Air Quality Health Risk Assessment to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of

any demolition, grading and/or building permit.

e. **SPC BIO-3: Santa Clara Valley Habitat Plan.** The project may be subject to applicable Santa Clara Valley Habitat Plan (SCVHP) conditions and fees (including the nitrogen deposition fee) prior to issuance of any ground disturbance permits. The permittee shall submit the SCVHP Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of all applicable fees prior to the issuance of any demolition, grading, or building permits. The SCVHP and supporting materials can be viewed at https://scv-habitatagency.org.

f. **SPC CUL-1: Human Remains**. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The permittee shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission will then designate a Most Likely Descendant. The Most Likely Descendant will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or their authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

   i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.

   ii. The MLD identified fails to make a recommendation; or

   iii. The landowner or their authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

g. **SPC CUL-2: Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

h. **SPC TCR-2: Tribal Cultural Resources Awareness Training and Monitoring.** Prior to issuance of any tree removal, demolition or grading permits, whichever occurs first, the permittee shall be required to submit evidence that a Cultural Awareness Training has been provided to construction personnel prior to ground disturbance, such as copies of worker sign-in sheets to confirm attendance. The training shall be facilitated by a qualified project archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Documentation verifying that Cultural Awareness Training has been conducted including training attendance logs and training materials shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee. Cultural Awareness Training shall be provided to any construction personnel who join the project after the original training session in accordance with the requirements of this condition. In addition, a qualified archaeologist in collaboration with a Native American monitor registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall be present during applicable earthmoving activities (e.g., trenching, initial or full grading, lifting of foundation, boring on site, or major landscaping, etc.). If the consulting tribe or Native American representative registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in PRC Section 21080.3 does not respond to a request for monitoring within 30 days, then earthmoving activities can proceed.

i. **SPC GEO-1: Seismic Hazards. A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist.** The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (California Geological Survey Special Publication 117A, 2008, and the Southern California Earthquake Center report 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the Geotechnical Report and issue a Geologic Clearance.

   i. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

   ii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

   iii. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

   iv. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

   v. If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

j. **SPC GEO-2: Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement or Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

k. **Haz-1.1:** Prior to the issuance of any demolition or grading permit, the applicant must enter into the Santa Clara County Department of Environment Health (SCCDEH) Site Cleanup Program (SCP) to obtain regulatory oversight from SCCDEH. Any further investigation and remedial actions must be performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed residential development. A report of the findings and of applicable regulatory oversight shall be provided to the Supervising Planner of the Department of Planning, Building and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

l. **SPC HYD-1: Construction-related Water Quality.** Construction-related water quality measures shall include the following:

   i. Burlap bags filled with drain rock shall be installed around storm drains to route sedimen and other debris away from the drains.

   ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

   iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

   iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.

   v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.

   vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).

   vii. Vegetation in disturbed areas shall be replanted as quickly as possible.

   viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.

   ix. The permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

m. **SPC NOI-1: Construction Noise Reduction Measures.** Noise minimization measures include, but are not limited to, the following:

i. Pile driving is prohibited.

ii. Limit construction to the hours of 7:00 A.M. and 7:00 P.M., Monday through Friday for any on-site or off-site work within 500 feet of any residential unit (San José Municipal Code Section 20.100.450). Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 8:00 a.m. to 5:00 p.m. Construction outside of these hours may be approved through a development permit based on a site-specific "Construction Noise Mitigation Plan" and a finding by the Director of Planning, Building and Code Enforcement or Director's designee that the Construction Noise Mitigation Plan is adequate to prevent noise disturbance of affected residential uses.

iii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

iv. Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

v. Prohibit unnecessary idling of internal combustion engines (no more than two minutes).

vi. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.

vii. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

viii. Utilize "quiet" air compressors and other stationary noise sources where technology exists.

ix. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.

x. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

xi. Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the noise disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

n. **SPC NOI-2: Enhanced Noise Reduction Measures for Extended Construction Hours.** The permittee shall retain a qualified acoustical consultant to prepare a site-specific, quantitative Construction Noise Assessment. In addition, to implementing the standard Construction Noise Reduction Measures (SPC NOI-1), the permittee shall include, but are not limited to, the following enhanced Construction Noise Reduction Measures:

i. Construct solid plywood fences around ground level construction sites located adjacent to operational businesses, residences, or other noise-sensitive land uses. Typically, a temporary eight-foot-tall noise barrier fence having a minimum surface density of two pounds per

square foot (lbs/ft2), such as 3/4-inch plywood, would provide a minimum attenuation of five A-weighted decibel for adjacent land uses when construction activities occur at the ground level, assuming no cracks or gaps.

ii. If complaints are received and excessive noise levels cannot be reduced using the measures above, temporary noise control blanket barrier along surrounding building facades that face the construction sites shall be erected.

iii. Substitute nail guns for manual hammering, where feasible.

iv. Substitute electrically powered tools for noisier pneumatic tools, where feasible.

v. The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate intake and exhaust mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components. Utilize "quiet" air compressors and other stationary noise sources where technology exists.

vi. The applicant shall submit the site-specific, quantitative Construction Noise Assessment to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permit.

o. **SPC NOI-6: Mechanical Equipment Noise:** Prior to the issuance of any building permits, mechanical equipment shall be selected and designed to meet the City's 55 day-night average sound level (dBA DNL) noise level requirement at the nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce equipment noise to comply with the City's noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures include locating equipment in less noise-sensitive areas (such as along the building façades farthest from the nearest residences or sensitive receptors), where feasible. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any building permits.

p. **SPC VIB-1: Non-pile Driving within 30 feet.** The permittee shall retain a qualified acoustical consultant to prepare a site-specific, quantitative Vibration Assessment. The permittee shall be required to implement the following Vibration Reduction Control Measures:

i. A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted by the contractor to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of demolition or grading permits. This list shall be used to identify equipment and activities that may generate substantial vibration and to define the level of effort required to reduce vibration levels below the thresholds.

ii. Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.

iii. Smaller equipment (less than 18,000 pounds) shall be used near the property lines or adjacent sensitive buildings to minimize vibration levels. For example, a smaller vibratory roller similar to a Caterpillar model CP433E vibratory compactor could be used when compacting materials within 30 feet of sensitive buildings. The smaller equipment intended to implement this requirement shall be individually identified among the list of equipment required under the above condition as a subset of equipment allowed for use at the property lines.

iv. Avoid dropping heavy equipment and using vibratory rollers within 30 feet of sensitive structures. Use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of structurally sensitive buildings. Select demolition methods that do not involve large impact tools, such as hoe-rams, within 30 feet of sensitive buildings. Portable jackhammers, saws, or grinders shall be used to minimize impacts to the ground.

v. The applicant shall submit the site-specific, quantitative Vibration Assessment to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permit.

42. **Vibration Monitoring.** Prior to the issuance of a demolition, grading, or building permit, which occurs first, the applicant shall implement a vibrations monitoring plan to document conditions during 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 Plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs first. The construction vibration monitoring plan should be implemented to include the following tasks:

a. Identification of sensitivity to groundborne vibration of nearby structures within 30 feet of the project site. A vibration survey (generally described below) would need to be performed;

b. Performance of a photo survey, elevation survey, and crack monitoring survey for each of these structures. Surveys shall be performed prior to any pile driving activity, at regular intervals during pile driving, and after completion, and 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;

c. 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 pile driving. Alternative construction methods would be identified for when vibration levels approach the limits that are stated in the General Plan, such as Policy EC-2.3;

d. If vibration levels approach limits, suspend construction and implement alternative construction methods to either lower vibration levels or secure the affected structures;

e. Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage have been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities;

f. The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of construction activities identified in the project schedule. The

report will include descriptions 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;

g. Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such a person shall be clearly posted on the construction site.

43. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended, or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

    a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or

    b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or

    c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **22nd day of July, 2026.**

CHRISTOPHER BURTON, Director
Planning, Building, and Code Enforcement

Sylvia Do

Deputy
Sylvia Do

THE GIFFORD (H25-039)

325 Gifford Ave, San Jose, CA 95126



All drawings and written material appearing herein constitute original, and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of the architect.

PROJECT DESCRIPTION

A PRIVATELY-FUNDED 8-STORY RESIDENTIAL BUILDING WITH GROUND-LEVEL PARKING GARAGE. THE PROJECT IS ONE BUILDING CONSISTING OF THE ELEMENTS DESCRIBED BELOW. THE PROJECT FALLS ENTIRELY WITHIN THE DOWNTOWN GENERAL PLAN DESIGNATION AND ALSO WITHIN THE DIRIDON AREA SPECIFIC PLAN.

• A 5-STORY RESIDENTIAL BUILDING OF TYPE III-A WOOD-FRAMED CONSTRUCTION OVER 3 LEVELS OF TYPE I-A MIXED OCCUPANCY METAL-FRAMED CONSTRUCTION.
• 276 RESIDENTIAL DWELLING UNITS, SEE STATISTICS BELOW FOR MORE INFORMATION.
• TOTAL PARKING CONSISTS OF UP TO 220 SPACES AT GROUND-LEVEL PARKING GARAGE, WHICH UTILIZES MECHANICAL PARKING STACKERS AND ASSOCIATED PIT.

ZONING: DC (DOWNTOWN COMMERCIAL)

URBAN VILLAGE: DIRIDON STATION AREA PLAN

GENERAL PLAN DESIGNATION: SAN JOSE DOWNTOWN - DESIGN GUILDLINE AND STANDARDS

HEIGHT / BULK: 110' (PER DIRIDON STATION AREA PLAN)

PROJECT LOCATION: 466 W SAN CARLOS ST, SAN JOSE, CA 95110
(325 GIFFORD AVE, SAN JOSE, CA 95126)

ASSESSOR'S PARCEL NUMBER: 264-20-133

LOT AREA: 38,964 SF (0.89 ACRE)

GROSS FLOOR AREA: 232,003 S.F.

PROPOSED GROSS FLOOR AREA

FLOOR	OCCUPANCY	GROSS AREA
FLOOR B1 GARAGE PIT	S-2	10,554 SF
FLOOR 1 RESIDENTIAL	R-2/A-3/S-2	36,222 SF
FLOOR 2 RESIDENTIAL	R-2/A-3	27,637 SF
FLOOR 3 RESIDENTIAL	R-2	25,636 SF
FLOOR 4 RESIDENTIAL	R-2	28,839 SF
FLOOR 5 RESIDENTIAL	R-2	28,839 SF
FLOOR 6 RESIDENTIAL	R-2	28,839 SF
FLOOR 7 RESIDENTIAL	R-2	28,839 SF
FLOOR 8 RESIDENTIAL	R-2	27,152 SF
TOTAL		**232,003 S.F. (EXCLUDING GARAGE)**

NOTE: AREA MEASURED TO THE EXTERIOR FACE OF BUILDING WALLS, INCLUDING DECKS THAT ARE NOT OPEN TO THE SKY. EXCLUDES PORTIONS OF DECKS WHICH PROJECT BEYOND THE FACE OF THE BUILDING. NO DEDUCTIONS FOR SHAFTS OR STAIRWAYS.

BUILDING AREA: 232,003 SF
GROUND FLOOR AREA: 36,222 SF
LOT AREA: 38,964 SF

LOT COVERAGE: 0.93
FAR: 5.95

RESIDENTIAL DENSITY
DWELLING UNITS: 276
NUMBER OF UNITS / ACRE: 310 DU/AC

AFFORDABLE UNITS: 14 (5% OF TOTAL UNITS)
AFFORDABLE LEVEL: VERY LOW

LOADING SPACE PROVIDED: TWO

PARKING

VEHICLE PARKING PROPOSED:
CAR STACKER = 208
SURFACE PARKING = 4
ACCESSIBLE PARKING = 5 (ONE OF WHICH IS VAN ACCESSIBLE)
TOTAL = 217

TWO WHEEL VEHICLE PARKING SPACE REQUIRED: 6 (2.5% OF STANDARD VEHICLE)
PROPOSED: 6

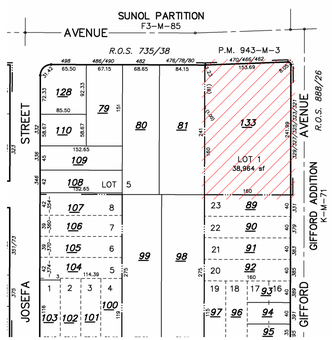
BICYCLE PARKING REQUIRED: (1 PER 4 DWELLING UNIT)
LONG-TERM SPACES (60%) = 42
SHORT-TERM SPACES (UP TO 40%) = 27
TOTAL = **69**

BICYCLE PARKING PROPOSED:
LONG-TERM SPACES = 68
SHORT-TERM SPACES = 4
TOTAL = **72**

SETBACK SUMMARY

STREET/ FRONTAGE	PROPOSED
SAN CARLOS ST.	FIRST FLOOR 5'-0". SECOND FLOOR AND ABOVE 0'-0" (BALCONY PROJECTS 4' OVER PUBLIC ROW)
GIFFORD AVE.	FIRST FLOOR 2'-0". SECOND FLOOR AND ABOVE 0'-0" (BALCONY PROJECTS 4' OVER PUBLIC ROW)
SOUTHWEST	FIRST FLOOR 0'-0" OR 1'-0". SECOND FLOOR AND ABOVE: 10'-0"
SOUTHEAST	FIRST FLOOR 0'0". SECOND FLOOR AND ABOVE: 10'-0"

PROJECT SUMMARY



PARCEL MAP

MAXIMUM BUILDING HEIGHT: 84'-10 1/2" FROM GRADE PLAN TO AVERAGE ROOF HEIGHT (BUILDING HEIGHT MEASUREMENT: BUILDING HEIGHT IS MEASURED IN ACCORDANCE WITH 2025 CBC SECTION 202, DEFINITIONS OF "BUILDING HEIGHT" AND "GRADE PLANE," AND EVALUATED FOR ALLOWABLE HEIGHT UNDER 2025 CBC SECTION 504.3 AND TABLE 504.3)

OCCUPANCY GROUPS:
RESIDENTIAL R-2
BUSINESS B
STORAGE (GARAGE) S-2
ASSEMBLY (COURTYARD) A-3

CONSTRUCTION TYPE:
R-2 TYPE III-A, FULLY SPINKLERED
R-2, B, S-2 , A3 TYPE I-A, FULLY SPINKLERED

ALLOWABLE GROSS FLOOR AREA / HEIGHTS / CONSTRUCTION TYPES

BASE ALLOWABLE AREA PER FLOOR PER CBC TABLE 506.2 FOR TYPE I-A:
S-2 UNLIMITED S.F.
B UNLIMITED S.F.
R-2 UNLIMITED S.F.
A-3 UNLIMITED S.F.

BASE ALLOWABLE HEIGHT & STORIES PER CBC TABLE 504.3 FOR TYPE I-A:
S-2 UNLIMITED
B UNLIMITED
R-2 UNLIMITED
A-3 UNLIMITED

BASE ALLOWABLE AREA PER FLOOR PER CBC TABLE 506.2 FOR TYPE III-A:
R-2 24,000 S.F.

BASE ALLOWABLE HEIGHT & STORIES PER CBC TABLES 504.3 & 504.4 FOR TYPE III-A:
R-2 85 FEET / 5 STORIES

FIRE-RESISTANCE RATING REQUIREMENTS:

3 HOUR HORIZONTAL SEPARATION BETWEEN TYPE I-A & TYPE III-A REQUIREMENTS PER SECTION 510.2
HORIZONTAL BUILDING SEPARATION ALLOWANCE

FOR TYPE I-A CONSTRUCTION: FIRE-RESISTANCE RATING REQUIREMENTS FOR BUILDING ELEMENTS PER TABLE 601:

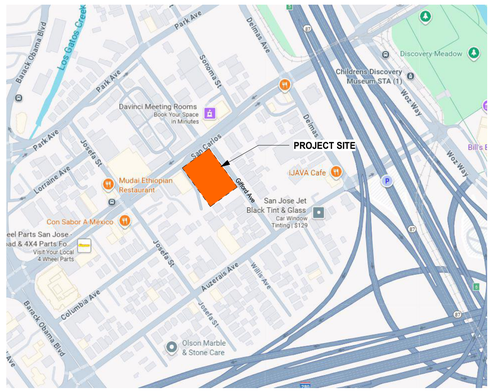
STRUCTURAL FRAME	3-HR	REDUCE TO 1 1/2-HR FOR ROOF SUPPORT
EXTERIOR BEARING WALLS	3-HR	
INTERIOR BEARING WALLS	3-HR	REDUCE TO 1 1/2-HR FOR ROOF SUPPORT
INT. NONBEARING WALLS	0-HR	
FLOOR CONSTRUCTION	2-HR	
ROOF CONSTRUCTION	1 1/2-HR	

TYPE III-A CONSTRUCTION: FIRE RESISTANCE RATING REQUIREMENTS FOR BUILDING ELEMENTS PER TABLE 601:

STRUCTURAL FRAME	1 HR.
EXTERIOR BEARING WALLS	2 HR.
INTERIOR BEARING WALLS	1 HR.
EXTERIOR NONBEARING WALLS & PARTITIONS	SEE BELOW
INTERIOR NONBEARING WALLS & PARTITIONS	0 HR.
FLOOR CONSTRUCTION (BEAMS & JOISTS)	1 HR.
ROOF CONSTRUCTION (BEAMS & JOISTS)	1 HR.
SHAFT / STAIRWAY ENCLOSURES	2 HR.

FIRE-RESISTANCE RATING REQUIREMENTS FOR EXTERIOR WALLS BASED ON FIRE SEPARATION DISTANCE FOR TYPE I-A, III-A AND V-A CONSTRUCTION AND OCCUPANCY PER TABLE 602:

FIRE SEP. DIST.	OCCUPANCIES: GROUP A, R-2, & S-2
X < 5	1 HR.
5 ≤ X < 10	1 HR.
10 ≤ X < 30	1 HR.
X ≥ 30	0 HR.



SITE VICINITY MAP

1. STEPBACK PLANE

REQUIRED: PER THE DIRIDON STATION AREA PLAN (MAY 25, 2021), THE EAST SIDE OF THE PROJECT IS SUBJECT TO THE LOT LINE STEPBACK PLANE PER FIGURE 2-4-7. THE EAST PROPERTY LINE IS SHARED WITH AN ADJACENT LOT AND HAS A 0' SETBACK PER ZONING. A STEPBACK PLANE MUST BEGIN AT 35' IN HEIGHT WITH A 6' STEPBACK WITHIN A 75-DEGREE ANGLE FROM HORIZONTAL.
PROPOSED: THE PROJECT PROVIDES A 10' STEPBACK BEGINNING AT 15' IN HEIGHT.
JUSTIFICATION: FULL COMPLIANCE WITH THE STEPBACK PLANE WOULD SIGNIFICANTLY REDUCE UNIT SIZES ON FLOORS 6 THROUGH 8, RESULTING IN THE LOSS OF 8 UNITS AS DESIGNED.

2. SKYLINE LEVEL MASSING

REQUIRED: PER THE SAN JOSÉ DOWNTOWN DESIGN GUIDELINES AND STANDARDS (OCTOBER 4, 2022), SECTION 4.3.2, FOR FACADES ABOVE 70' AND WIDER THAN 200', PROJECTS MUST INCLUDE A CHANGE IN MASSING (STEPBACK OR NOTCH) AT LEAST 30' WIDE AND 20' DEEP TO REDUCE APPARENT BULK. THE GIFFORD AVENUE FACA APPROXIMATELY 230', REQUIRING SUCH A NOTCH.
PROPOSED: THE PROJECT PROVIDES A NOTCH 38' WIDE BY 3' DEEP ALONG GIFFORD AVENUE.
JUSTIFICATION: PROVIDING THE REQUIRED 30' X 20' NOTCH WOULD RESULT IN THE LOSS OF AT LEAST 6 UNITS AS DESIGNED.

3. BALCONIES (PRIVATE OPEN SPACE)

REQUIRED: PER THE SAN JOSE DOWNTOWN DESIGN GUIDELINES AND STANDARDS (OCTOBER 4, 2022), SECTION 4.4.2.C, AT LEAST 50% OF PODIUM-LEVEL (BELOW 70') STREET-FACING RESIDENTIAL UNITS MUST INCLUDE BALCONIES. EACH BALCONY MUST BE AT LEAST 4' DEEP BY 20' WIDE.
PROPOSED: THE PROJECT PROVIDES 20 BALCONIES ALONG GIFFORD AVENUE AND W. SAN CARLOS STREET, EACH APPROXIMATELY 6'-6" DEEP BY 12' WIDE.
JUSTIFICATION: OF THE 81 PODIUM-LEVEL STREET-FACING UNITS ALONG GIFFORD AVENUE AND W. SAN CARLOS STREET, STRICT 50% COMPLIANCE WOULD REQUIRE AT LEAST 41 QUALIFYING BALCONIES. THE PROJECT PROVIDES 20 BALCONIES AT APPROXIMATELY 6'-6" BY 12', OR APPROXIMATELY 1,560 SF OF BALCONY AREA. FULL COMPLIANCE WOULD REQUIRE APPROXIMATELY 3,280 SF OF BALCONY AREA, RESULTING IN AN ADDITIONAL BALCONY AREA SHORTFALL OF APPROXIMATELY 1,720 SF BEYOND WHAT IS ALREADY PROVIDED. USING THE PROJECT'S APPROXIMATELY 420 SF STUDIO MODULE, THIS ADDITIONAL REQUIRED BALCONY AREA IS EQUIVALENT TO EQUIVALENTS. FULL COMPLIANCE WOULD THEREFORE PHYSICALLY PRECLUDE THE PROJECT AS DESIGNED BY REDUCING RESIDENTIAL YIELD AND MAKING THE AFFECTED UNIT LAYOUTS INFEASIBLE.

4. GROUND FLOOR RESIDENTIAL SPACE

REQUIRED: PER THE SAN JOSÉ DOWNTOWN DESIGN GUIDELINES AND STANDARDS (OCTOBER 4, 2022), SECTION 5.3.3, GROUND-FLOOR RESIDENTIAL UNITS MUST BE ELEVATED 2' TO 3' ABOVE GRADE TO PROVIDE ADEQUATE SEPARATION FROM THE PUBLIC SPACE.
PROPOSED: THE PROJECT PROVIDES GROUND-FLOOR UNIT ENTRIES AT GRADE LEVEL ADJACENT TO OPEN SPACE.
JUSTIFICATION: RAISING GROUND-FLOOR UNITS WOULD REQUIRE ADDITIONAL INTERIOR AND EXTERIOR RAMPS TO MAINTAIN ACCESSIBILITY, CONSUMING VALUABLE BUILDING SPACE RESULTING IN A REDUCTION OF SQUARE FOOTAGE EQUIVALENT TO 1 UNIT, AND REDUCING DESIGN EFFICIENCY AS DESIGNED.

5. PODIUM LEVEL MASSING

REQUIRED: PER THE SAN JOSÉ DOWNTOWN DESIGN GUIDELINES AND STANDARDS (OCTOBER 4, 2022), SECTION 4.3.1, PODIUM-LEVEL BUILDING MASSING FACING A PUBLIC SPACE THAT RESULTS IN A FAÇADE WIDER THAN 100 FEET MUST BE DIVIDED INTO VISIBLY ARTICULATED SMALLER MASSES NO WIDER THAN 80 FEET. THIS MAY BEACHIEVED THROUGH PROJECTIONS AND RECESSES, MATERIAL CHANGES, SHADOW RELIEF, OR OTHER ARCHITECTURAL ELEMENTS.
PROPOSED: THE PROJECT INTRODUCES A RECESSED AREA WITHIN THE PODIUM FAÇADE TO BREAK DOWN THE OVERALL MASSING AND SUPPORT A MORE PEDESTRIAN-SCALED STREETSCAPE.
JUSTIFICATION: INTRODUCING AN ADDITIONAL RECESSED AREA TO MAINTAIN FAÇADE SEGMENTS UNDER 80 FEET WOULD REDUCE RESIDENTIAL UNIT AREAS BY APPROXIMATELY 540 SF, OR THE EQUIVALENT OF 1 UNIT (108 SF/ FLOOR), WHICH WOULD HAVE A MEASURABLE IMPACT ON PROJECT EFFICIENCY AND LIVABILITY AS DESIGNED.

DENSITY BONUS WAIVERS

UNIT AND AREA SUMMARY

GIFFORD
325 GIFFORD AVE, SAN JOSE, CA 95126
LATEST UPDATE: 8/27/2025

BUILDING 1
CONSTRUCTION TYPE: TYPE IIIA OVER TYPE I
FLOORS: 5 LEVEL OF WOOD OVER 3 LEVELS OF CONCRETE

UNIT	TYPE	DESCRIPTION	UNIT AREA (SF)	1ST	2ND	3RD	4TH	5TH	6TH	7TH	8TH	UNIT TOTAL	% RATIO	TOTAL UNIT AREA (SF)
STUDIO	S1.0	STUDIO	660	4	-	-	-	-	-	-	-	4	1%	2,640
	S2.0	STUDIO	420	-	-	-	2	2	2	2	2	10	4%	4,200
	S2.1	STUDIO	433	-	1	1	1	1	1	1	-	6	2%	2,598
	S2.2	STUDIO	470	-	4	4	2	2	2	2	2	18	7%	8,460
	S3.0	STUDIO	592	-	1	1	1	1	1	1	-	6	2%	3,552
	S4.0	STUDIO	438	-	-	1	5	5	5	5	5	26	9%	11,388
	S5.0	STUDIO	447	-	-	-	1	1	1	1	1	5	2%	2,235
STUDIO SUB-TOTAL		AVERAGE SF	468	4	6	7	12	12	12	12	10	**75**	**27%**	**35,073**
1 BEDROOM	A1.0	1 BDRM / 1 BATH	464	-	2	1	2	2	2	2	2	13	5%	6,032
	A1.1	1 BDRM / 1 BATH	520	-	6	12	12	12	12	12	12	78	28%	40,560
	A1.2	1 BDRM / 1 BATH	573	-	-	1	1	1	1	1	1	6	2%	3,438
	A1.3	1 BDRM / 1 BATH	588	-	1	1	1	1	1	1	1	7	3%	4,116
	A1.4	1 BDRM / 1 BATH	602	-	1	1	1	1	1	1	1	7	3%	4,214
	A2.0	1 BDRM / 1 BATH	542	-	2	2	2	2	2	2	2	14	5%	7,588
	A3.0	1 BDRM / 1 BATH	723	-	1	1	1	1	1	1	1	7	3%	5,061
	A4.0	1 BDRM / 1 BATH	613	1	2	-	-	-	-	-	-	3	1%	1,839
1 BEDROOM SUB-TOTAL		AVERAGE SF	540	1	15	19	20	20	20	20	20	**135**	**49%**	**72,848**
2 BEDROOM	B1.0	2 BDRM/ 2 BATH	709	-	2	2	2	2	2	2	2	14	5%	9,926
	B1.1	2 BDRM/ 2 BATH	771	-	1	1	1	1	1	1	1	7	3%	5,397
	B1.2	2 BDRM/ 2 BATH	736	-	2	2	2	2	2	2	1	13	5%	9,568
	B1.3	2 BDRM/ 2 BATH	774	-	-	-	1	1	1	1	1	5	2%	3,870
	B2.0	2 BDRM/ 2 BATH	964	-	2	2	2	2	2	2	2	14	5%	13,496
	B2.1	2 BDRM/ 2 BATH	809	-	1	1	1	1	1	1	-	6	2%	4,854
	B3.0	2 BDRM/ 2 BATH	1,143	-	1	1	1	1	1	1	1	7	3%	8,001
2 BEDROOM SUB-TOTAL		AVERAGE SF	835	0	9	9	10	10	10	10	8	**66**	**24%**	**55,112**
TOTAL UNITS		**AVERAGE SF**	**591**	**5**	**30**	**35**	**42**	**42**	**42**	**42**	**38**	**276**	**100%**	**163,033**
NET RENTABLE RESIDENTIAL AREA IS MEASURED CENTER OF DEMISING WALL, EXTERIOR FACE OF STUD OF EXTERIOR WALL AND CORRIDOR WALLS, EXCLUDING DECKS														
NET RENTABLE RESIDENTIAL BY FLOOR (EXCLUDING DECKS)				3,253	18,717	21,158	24,495	24,495	24,495	24,495	21,925			**163,033**
RESIDENTIAL AMENITIES				4,650	4,963	760	-	-			840			11,213
LEASING OFFICE				575	-	-	-	-			-			575
GARAGE				23,603	-	-	-	-			-			23,603
OTHER (STORAGE, UTILITY ROOMS, CIRCULATION, SHAFTS, UNIT DECKS)				4,141	3,957	3,718	4,344	4,344	4,344	4,344	4,387			33,579
TOTAL GROSS				**36,222**	**27,637**	**25,636**	**28,839**	**28,839**	**28,839**	**28,839**	**27,152**			**232,003**

DRAWING

PLANNING-SHEETS
AP0.00 PROJECT INFORMATION
AP0.01 SITE CONTEXT
AP0.02 OPEN SPACE CALCULATION
AP0.15 EGRESS DIAGRAM - FLOOR 1
AP0.16 EGRESS DIAGRAM - FLOOR 2
AP0.17 EGRESS DIAGRAM - FLOOR 3
AP0.18 EGRESS DIAGRAM - FLOOR 4-7
AP0.19 EGRESS DIAGRAM - FLOOR 8
AP0.20 EGRESS DIAGRAM - ROOF
AP0.22 ALLOWABLE OPENINGS DIAGRAM - PLANS
AP0.23 ALLOWABLE OPENINGS DIAGRAM - ELEVATIONS
AP0.25 FIRE DEPARTMENT VARIANCE
ARCHITECTURE-SHEETS
AP1.00 SITE PLAN
AP2.01 FLOOR 1 - PLAN
AP2.02 FLOOR 2 - PLAN
AP2.03 FLOOR 3 - PLAN
AP2.04 FLOOR 4 & 6 - PLAN
AP2.05 FLOOR 5 & 7 - PLAN
AP2.06 FLOOR 8 - PLAN
AP2.07 ROOF - PLAN
AP3.00 NORTH/ WEST BUILDING ELEVATION
AP3.02 SOUTH/ EAST ELEVATION
AP3.10 MATERIAL BOARD
AP3.11 PERSPECTIVE VIEWS
AP3.12 PERSPECTIVE VIEWS
AP3.20 SECTIONS
AP3.21 SECTIONS
AP4.00 UNIT PLANS
AP5.00 DETAILS
CIVIL-SHEETS
C1.00 EXISTING CONDITIONS & DEMOLITION PLAN
C2.00 HORIZONTAL CONTROL & SIGNING & STRIPING PLAN
C3.00 GRADING & DRAINAGE PLAN
C4.00 UTILITY PLAN
C5.00 STORMWATER CONTROL PLAN
C5.01 STORMWATER CALCULATIONS AND DETAILS
C5.02 STORMWATER NOTES
C6.00 FIRE PROTECTION PLAN
LANDSCAPE-SHEETS
L1.00 TREE DISPOSITION PLAN
L1.01 LANDSCAPE PLAN GROUND FLOOR
L1.02 LANDSCAPE PLAN SECOND FLOOR
L1.03 LANDSCAPE PLAN EIGHTH FLOOR
L1.04 LANDSCAPE NOTES & SCHEDULES
TRASH-SHEETS
TR0.1 TRASH PLAN - GROUND
TR0.2 TRASH PLAN - TYPICAL
TR1.0 TRASH PLAN - ENLARGED

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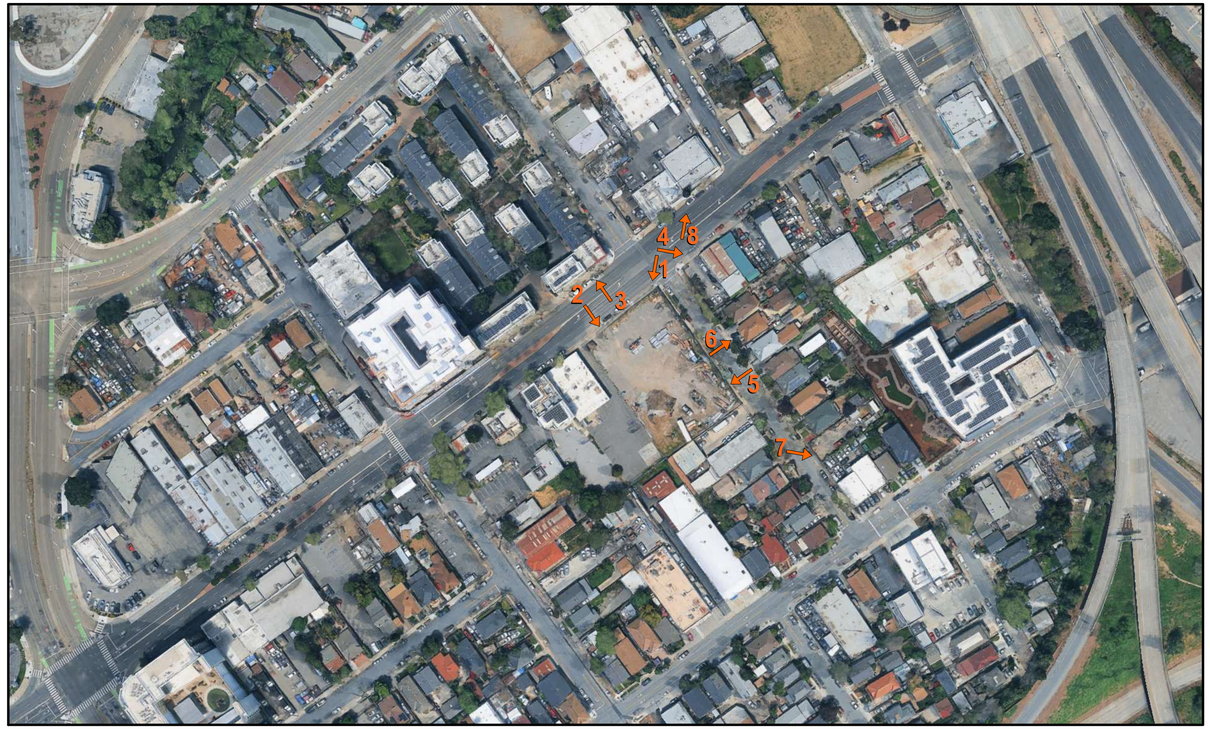
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PROJECT TEAM

All drawings and written material appearing herein constitute original, and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of the architect.



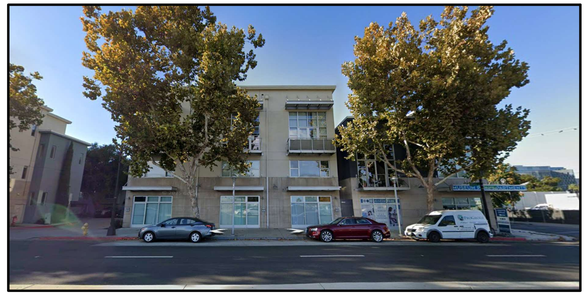




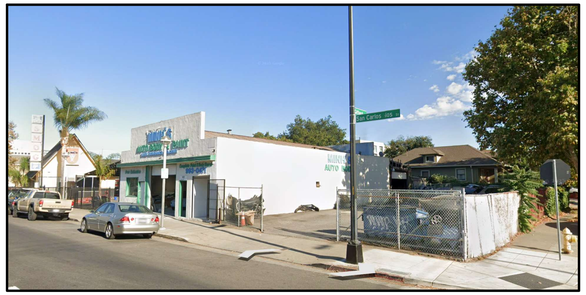
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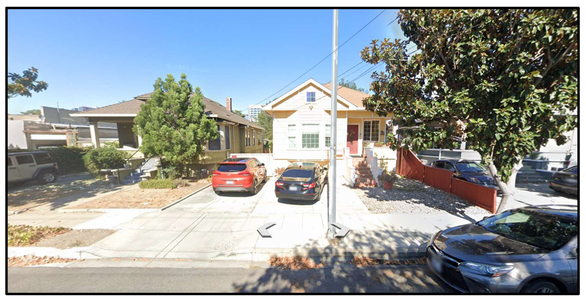
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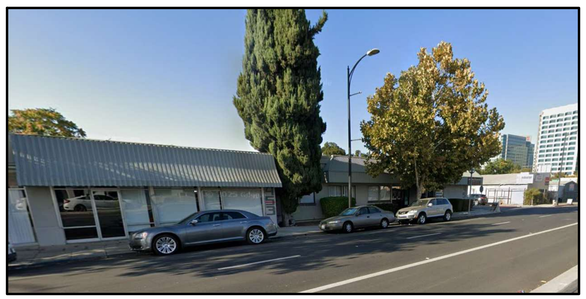
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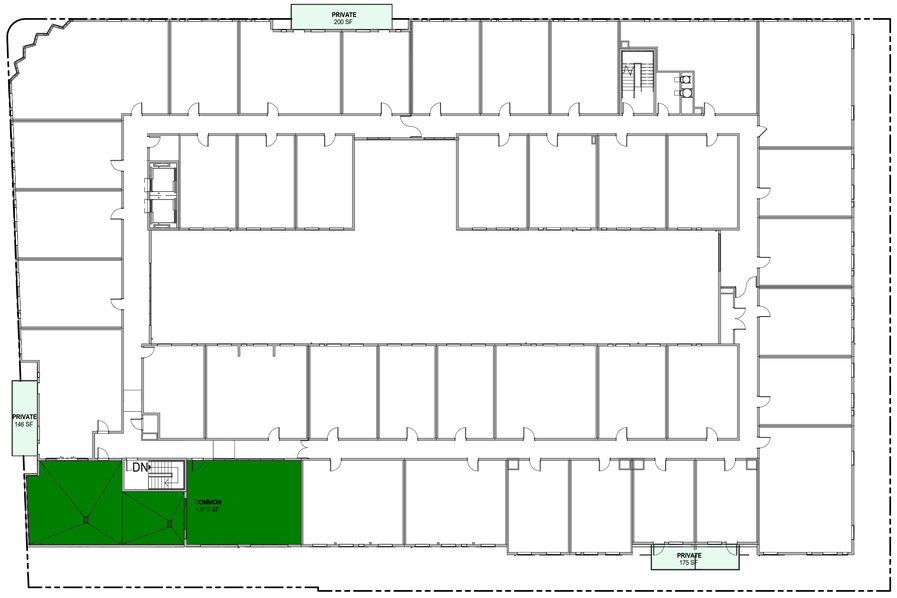


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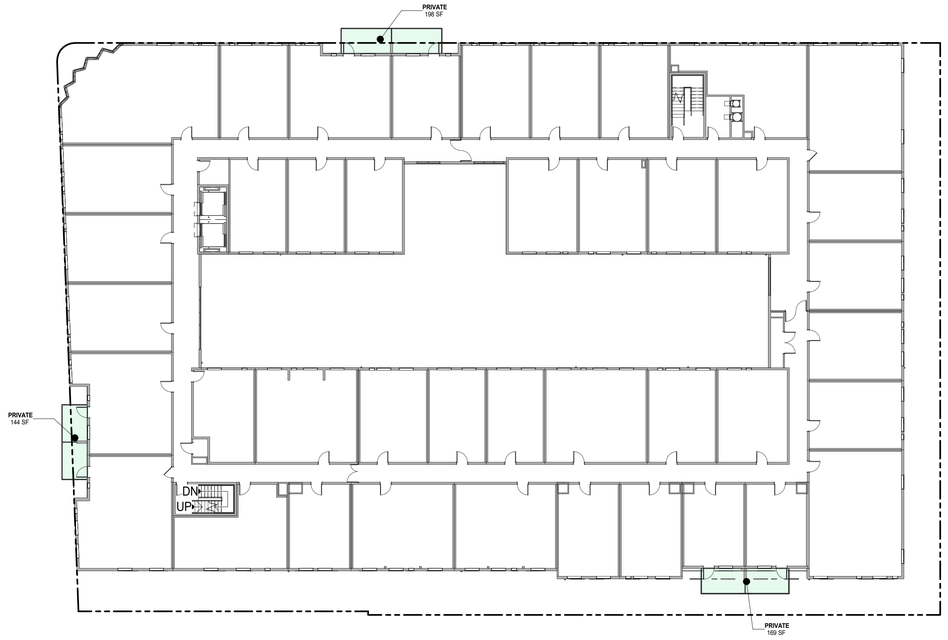


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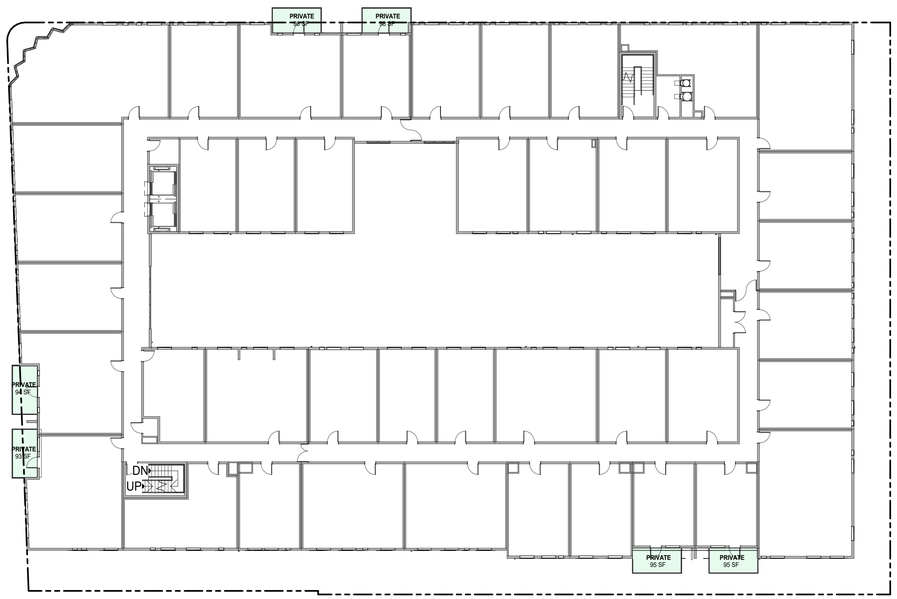
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OPEN SPACE DIAGRAM - FLOOR 8



OPEN SPACE DIAGRAM - FLOOR 4 & 6



OPEN SPACE DIAGRAM - FLOOR 5 & 7



OPEN SPACE DIAGRAM - FLOOR 2

PRIVATE	
FLOOR 4	511 SF
FLOOR 5	573 SF
FLOOR 6	511 SF
FLOOR 7	573 SF
FLOOR 8	346 SF
TOTAL PRIVATE	2,514 SF
PUBLIC	
FLOOR 2	10,299 SF
FLOOR 8	1,560 SF
TOTAL PUBLIC	11,859 SF
TOTAL	
TOTAL OPEN SPACE	14,373 SF

LEGEND

PRIVATE OPEN SPACE

COMMON OPEN SPACE

0' 20' 40'

OPEN SPACE CALCULATIONS

1"=20'

AP0.02

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		BREAK ROOM
AREA		273 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	B
OCCUPANT LOAD FACTOR	TABLE 1004.5	15 NET
OCCUPANT LOAD		19

		OFFICE
AREA		131 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	B
OCCUPANT LOAD FACTOR	TABLE 1004.5	150 GROSS
OCCUPANT LOAD		1

		OFFICE
AREA		105 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	B
OCCUPANT LOAD FACTOR	TABLE 1004.5	150 GROSS
OCCUPANT LOAD		1

		MAIL
AREA		507 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	B
OCCUPANT LOAD FACTOR	TABLE 1004.5	150 GROSS
OCCUPANT LOAD		4

		PACKAGE
AREA		210 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	S-1
OCCUPANT LOAD FACTOR	TABLE 1004.5	300 GROSS
OCCUPANT LOAD		1

		RESIDENTIAL
AREA		4,201 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 GROSS
OCCUPANT LOAD		22

		LOBBY
AREA		1,581 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	A-3
OCCUPANT LOAD FACTOR	TABLE 1004.5	15 NET
OCCUPANT LOAD		106
NUMBER OF EXITS REQUIRED	SECTION 1006.2	2
NUMBER OF EXITS PROVIDED		2

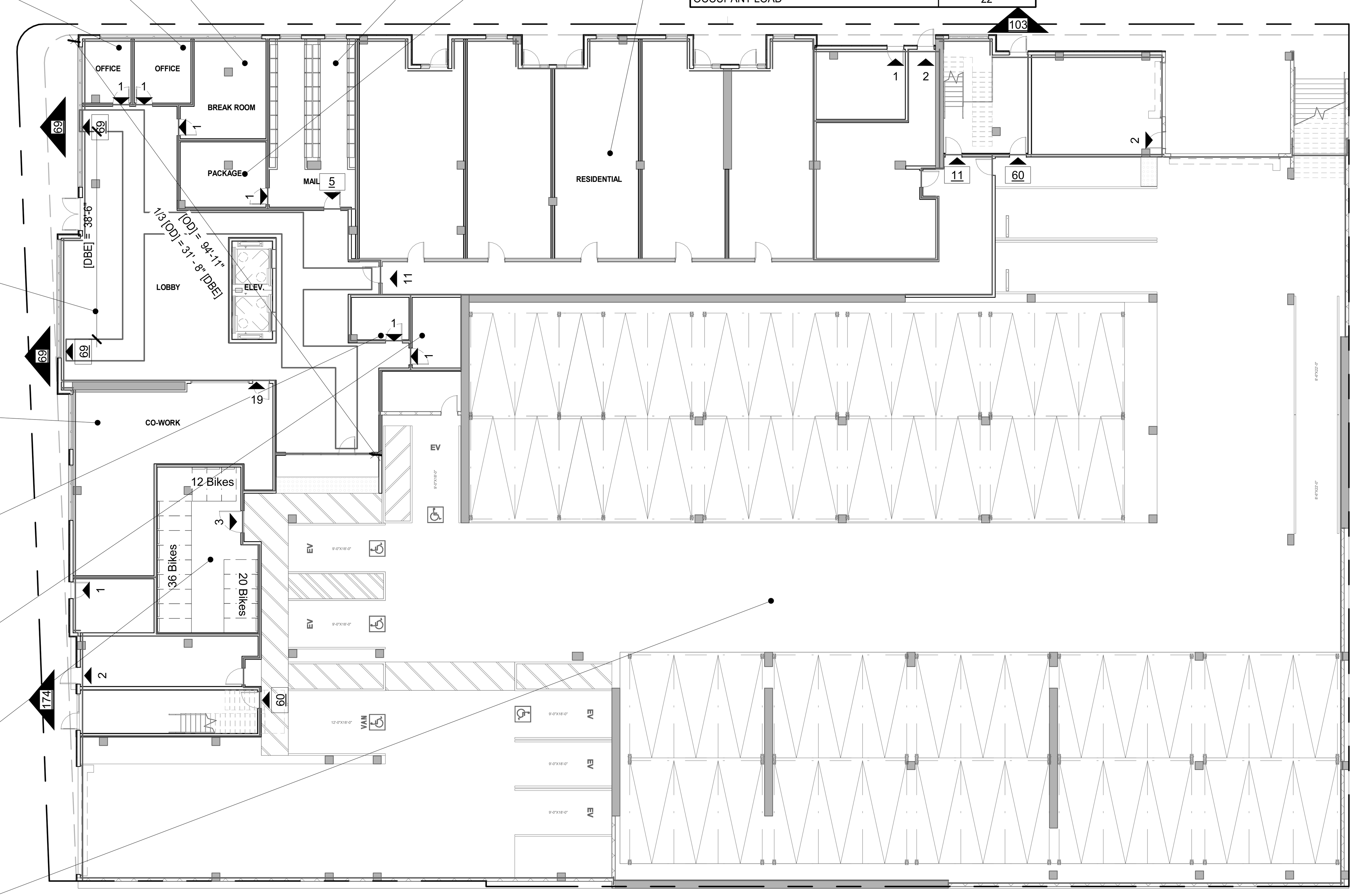
		CO-WORK
AREA		926 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	B
OCCUPANT LOAD FACTOR	TABLE 1004.5	50 GROSS
OCCUPANT LOAD		19

		ELEV. CTRL.
AREA		95 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	S-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	300 GROSS
OCCUPANT LOAD		1

		SPA MECH.
AREA		131 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	S-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	300 GROSS
OCCUPANT LOAD		1

		BIKE STORAGE
AREA		554 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	S-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 GROSS
OCCUPANT LOAD		3

		GARAGE
AREA		23,505 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	S-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 NET
OCCUPANT LOAD		118
NUMBER OF EXITS REQUIRED	SECTION 1006.2	2
NUMBER OF EXITS PROVIDED		2



LEGEND

39	EXIT OCCUPANT LOAD
39 H.E.	EXIT OCCUPANT LOAD @ HORIZONTAL EXIT
39	EXIT CUMULATIVE OCCUPANT LOAD
39	EXIT DISCHARGE OCCUPANT LOAD

TABLE 1004.5 MAX AREA ALLOWANCES PER OCCUPANT	
FUNCTION OF SPACE	OCCUPANT LOAD FACTOR
ACCESSORY SPACES, STORAGE, MECHANICAL, ELECTRICAL, ETC.	300 GROSS
ASSEMBLY WITHOUT FIXED SEATS, UNCONCENTRATED	15 NET
BUSINESS AREAS (STANDARD)	150 GROSS
BUSINESS AREAS (CONCENTRATED) ††	>50 GROSS
EXERCISE ROOMS	50 GROSS
MERCANTILE	60 GROSS
OUTDOOR ASSEMBLY AREAS †	15 NET
PARKING GARAGE	200 GROSS
RESIDENTIAL	200 GROSS
SWIMMING POOL	50 GROSS
SWIMMING POOL DECK	15 GROSS

† THE OCCUPANT LOAD OF SUCH OUTDOOR AREAS SHALL BE ASSIGNED BY THE BUILDING OFFICIAL IN ACCORDANCE WITH THE ANTICIPATED USE.
†† WHERE APPROVED BY THE AHJ, ACTUAL OCCUPANT LOAD, BUT NOT LESS THAN 50 OLF.

0' 8' 16' 32'

TRUE NORTH PROJ NORTH

1/16"=1'-0"

THE GIFFORD (H25-039)

EGRESS DIAGRAM - FLOOR 1

AP0.15

BMR UNITS

APRIL 27, 2026

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RESIDENTIAL EXITING AREA		
AREA		8,228 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 GROSS
OCCUPANT LOAD		42
NUMBER OF EXITS REQUIRED	SECTION 1006.2	2
NUMBER OF EXITS PROVIDED		2

GYM		
AREA		1,277 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	A-3
OCCUPANT LOAD FACTOR	TABLE 1004.5	50 GROSS
OCCUPANT LOAD		26

CO-WORK		
AREA		569 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	B
OCCUPANT LOAD FACTOR	TABLE 1004.5	150 GROSS
OCCUPANT LOAD		4

COURTYARD		
AREA		3,557 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	A-3
OCCUPANT LOAD FACTOR	TABLE 1004.5	15 NET
OCCUPANT LOAD		238
NUMBER OF EXITS REQUIRED	SECTION 1006.2	2
NUMBER OF EXITS PROVIDED		2

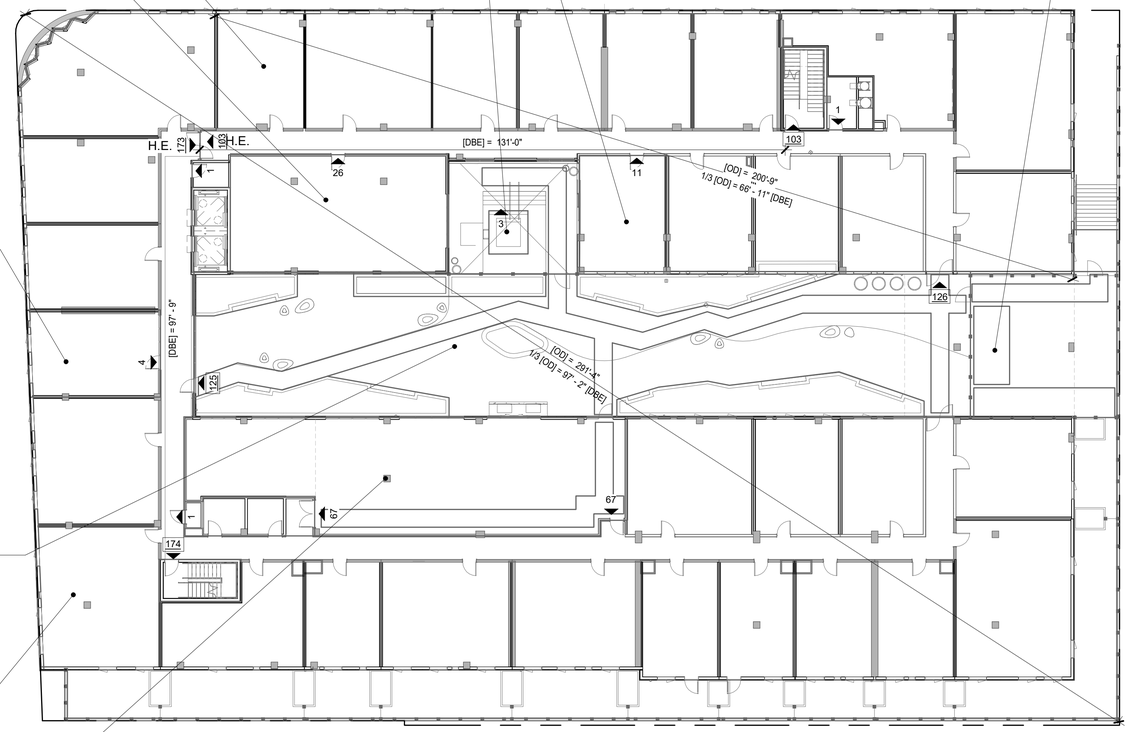
RESIDENTIAL EXITING AREA 2		
AREA		16,280 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 GROSS
OCCUPANT LOAD		82

GAME ROOM / LOUNGE / KITCHEN		
AREA		2,007 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	A-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	15 NET
OCCUPANT LOAD		134
NUMBER OF EXITS REQUIRED	SECTION 1006.2	2
NUMBER OF EXITS PROVIDED		2

YOGA		
AREA		507 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	B
OCCUPANT LOAD FACTOR	TABLE 1004.5	50 GROSS
OCCUPANT LOAD		11

SPA		
AREA		84 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2 ACC
OCCUPANT LOAD FACTOR	TABLE 1004.5	50 GROSS
OCCUPANT LOAD		2

DOG RUN HUMAN AREA		
AREA		140 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	A-3
OCCUPANT LOAD FACTOR	TABLE 1004.5	15 NET
OCCUPANT LOAD		10
NUMBER OF EXITS REQUIRED	SECTION 1006.2	1
NUMBER OF EXITS PROVIDED		1



LEGEND

39	EXIT OCCUPANT LOAD
39 H.E.	EXIT OCCUPANT LOAD @ HORIZONTAL EXIT
39	EXIT CUMULATIVE OCCUPANT LOAD
39	EXIT DISCHARGE OCCUPANT LOAD

TABLE 1004.5 MAX AREA ALLOWANCES PER OCCUPANT	
FUNCTION OF SPACE	OCCUPANT LOAD FACTOR
ACCESSORY SPACES, STORAGE, MECHANICAL, ELECTRICAL, ETC.	300 GROSS
ASSEMBLY WITHOUT FIXED SEATS, UNCONCENTRATED	15 NET
BUSINESS AREAS (STANDARD)	150 GROSS
BUSINESS AREAS (CONCENTRATED) ††	>50 GROSS
EXERCISE ROOMS	50 GROSS
MERCANTILE	60 GROSS
OUTDOOR ASSEMBLY AREAS †	15 NET
PARKING GARAGE	200 GROSS
RESIDENTIAL	200 GROSS
SWIMMING POOL	50 GROSS
SWIMMING POOL DECK	15 GROSS

† THE OCCUPANT LOAD OF SUCH OUTDOOR AREAS SHALL BE ASSIGNED BY THE BUILDING OFFICIAL IN ACCORDANCE WITH THE ANTICIPATED USE.
†† WHERE APPROVED BY THE AHJ, ACTUAL OCCUPANT LOAD, BUT NOT LESS THAN 50 OLF.

0' 8' 16' 32'

1/16"=1'-0"

EGRESS DIAGRAM - FLOOR 2

AP0.16

BDE ARCHITECTURE | URBAN CATALYST | LANGAN | Kimley»Horn

THE GIFFORD (H25-039)

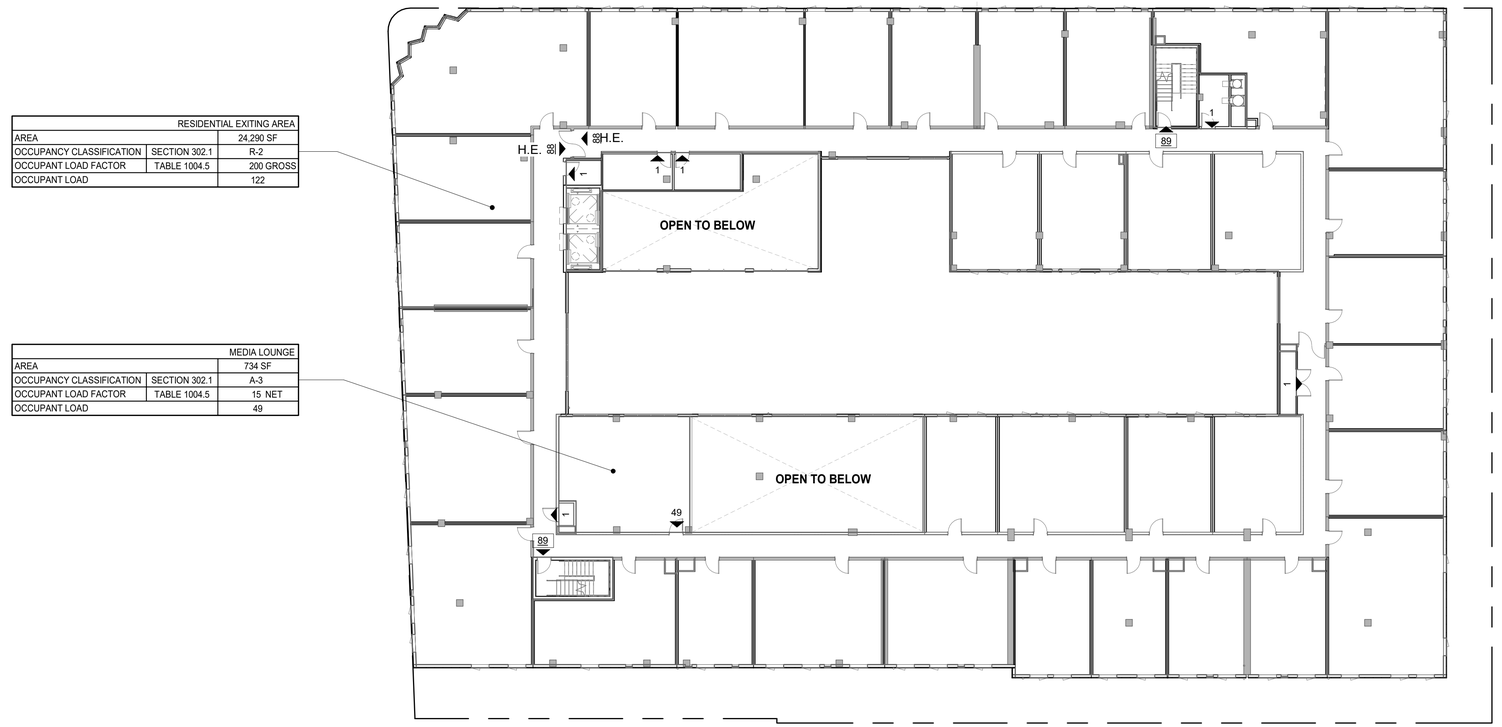
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APRIL 27, 2026

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RESIDENTIAL EXITING AREA		
AREA		24,290 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 GROSS
OCCUPANT LOAD		122

MEDIA LOUNGE		
AREA		734 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	A-3
OCCUPANT LOAD FACTOR	TABLE 1004.5	15 NET
OCCUPANT LOAD		49



LEGEND

- EXIT / 39 — OCCUPANT LOAD
- EXIT / 39 / H.E. — OCCUPANT LOAD @ HORIZONTAL EXIT
- EXIT / 39 — CUMULATIVE OCCUPANT LOAD
- 39 — EXIT DISCHARGE OCCUPANT LOAD

TABLE 1004.5 MAX AREA ALLOWANCES PER OCCUPANT	
FUNCTION OF SPACE	OCCUPANT LOAD FACTOR
ACCESSORY SPACES, STORAGE, MECHANICAL, ELECTRICAL, ETC.	300 GROSS
ASSEMBLY WITHOUT FIXED SEATS, UNCONCENTRATED	15 NET
BUSINESS AREAS (STANDARD)	150 GROSS
BUSINESS AREAS (CONCENTRATED) ††	>50 GROSS
EXERCISE ROOMS	50 GROSS
MERCANTILE	60 GROSS
OUTDOOR ASSEMBLY AREAS †	15 NET
PARKING GARAGE	200 GROSS
RESIDENTIAL	200 GROSS
SWIMMING POOL	50 GROSS
SWIMMING POOL DECK	15 GROSS

† THE OCCUPANT LOAD OF SUCH OUTDOOR AREAS SHALL BE ASSIGNED BY THE BUILDING OFFICIAL IN ACCORDANCE WITH THE ANTICIPATED USE.
†† WHERE APPROVED BY THE AHJ, ACTUAL OCCUPANT LOAD, BUT NOT LESS THAN 50 OLF.

0' 8' 16' 32'

1/16"=1'-0"

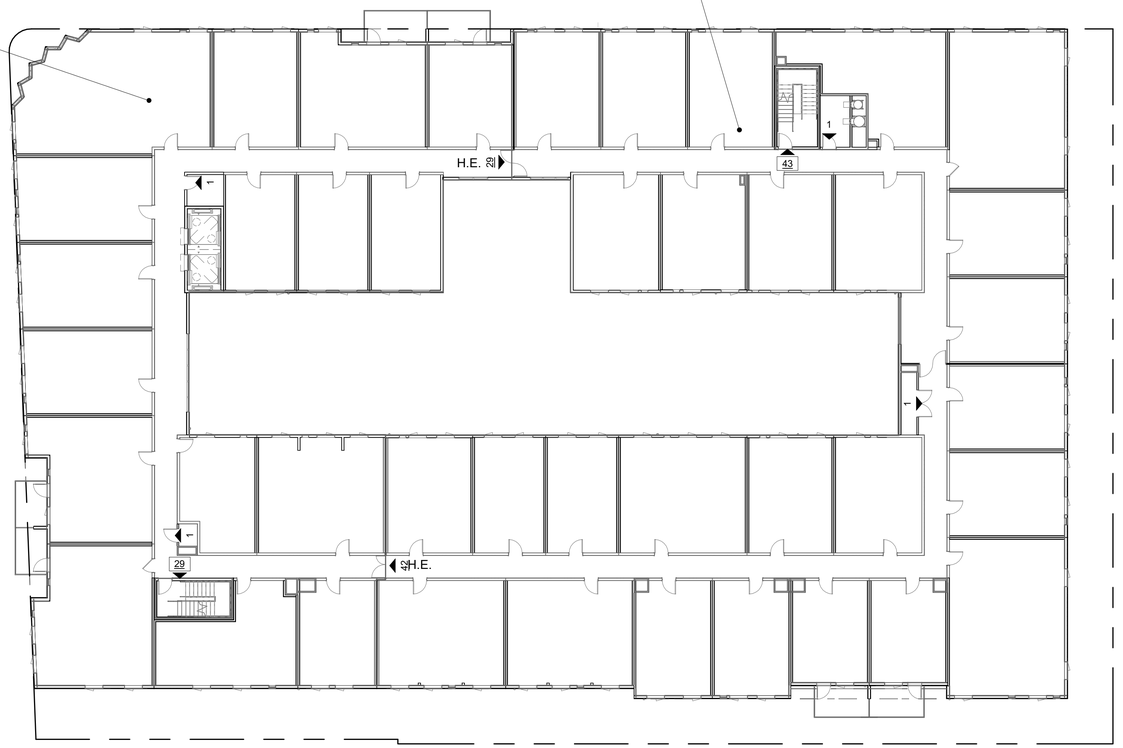
EGRESS DIAGRAM - FLOOR 3

AP0.17

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RESIDENTIAL EXITING AREA		
AREA		11,181 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 GROSS
OCCUPANT LOAD		56

RESIDENTIAL EXITING AREA 2		
AREA		16,507 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 GROSS
OCCUPANT LOAD		83



LEGEND

- 39 — EXIT OCCUPANT LOAD
- 39 H.E. — EXIT OCCUPANT LOAD @ HORIZONTAL EXIT
- 39 — EXIT CUMULATIVE OCCUPANT LOAD
- 39 — EXIT DISCHARGE OCCUPANT LOAD

TABLE 1004.5 MAX AREA ALLOWANCES PER OCCUPANT	
FUNCTION OF SPACE	OCCUPANT LOAD FACTOR
ACCESSORY SPACES, STORAGE, MECHANICAL, ELECTRICAL, ETC.	300 GROSS
ASSEMBLY WITHOUT FIXED SEATS, UNCONCENTRATED	15 NET
BUSINESS AREAS (STANDARD)	150 GROSS
BUSINESS AREAS (CONCENTRATED) ††	>50 GROSS
EXERCISE ROOMS	50 GROSS
MERCANTILE	60 GROSS
OUTDOOR ASSEMBLY AREAS †	15 NET
PARKING GARAGE	200 GROSS
RESIDENTIAL	200 GROSS
SWIMMING POOL	50 GROSS
SWIMMING POOL DECK	15 GROSS

† THE OCCUPANT LOAD OF SUCH OUTDOOR AREAS SHALL BE ASSIGNED BY THE BUILDING OFFICIAL IN ACCORDANCE WITH THE ANTICIPATED USE.
†† WHERE APPROVED BY THE AHJ, ACTUAL OCCUPANT LOAD, BUT NOT LESS THAN 50 OLF.

0' 8' 16' 32'

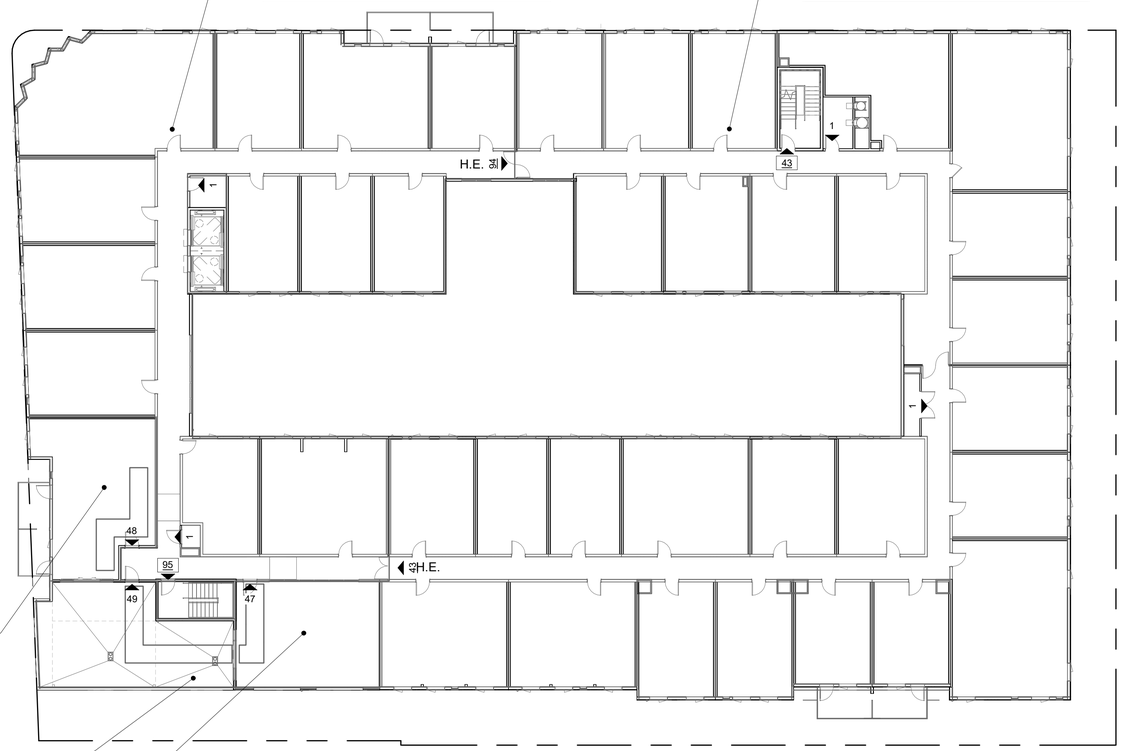
1/16"=1'-0"

EGRESS DIAGRAM - FLOORS 4-7 AP0.18

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RESIDENTIAL EXITING AREA		
AREA		8,431 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 GROSS
OCCUPANT LOAD		43

RESIDENTIAL EXITING AREA		
AREA		16,759 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2
OCCUPANT LOAD FACTOR	TABLE 1004.5	200 GROSS
OCCUPANT LOAD		84



PENTHOUSE LOUNGE		
AREA		715 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2 ACC
OCCUPANT LOAD FACTOR	TABLE 1004.5	15 NET
OCCUPANT LOAD		48

PENTHOUSE DECK		
AREA		735 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2 ACC
OCCUPANT LOAD FACTOR	TABLE 1004.5	15 NET
OCCUPANT LOAD		49

PENTHOUSE LOUNGE		
AREA		691 SF
OCCUPANCY CLASSIFICATION	SECTION 302.1	R-2 ACC
OCCUPANT LOAD FACTOR	TABLE 1004.5	15 NET
OCCUPANT LOAD		47

LEGEND

- 39 — EXIT, OCCUPANT LOAD
- 39 H.E. — EXIT, OCCUPANT LOAD @ HORIZONTAL EXIT
- 39 — EXIT, CUMULATIVE OCCUPANT LOAD
- 39 — EXIT DISCHARGE OCCUPANT LOAD

TABLE 1004.5 MAX AREA ALLOWANCES PER OCCUPANT	
FUNCTION OF SPACE	OCCUPANT LOAD FACTOR
ACCESSORY SPACES, STORAGE, MECHANICAL, ELECTRICAL, ETC.	300 GROSS
ASSEMBLY WITHOUT FIXED SEATS, UNCONCENTRATED	15 NET
BUSINESS AREAS (STANDARD)	150 GROSS
BUSINESS AREAS (CONCENTRATED) ††	>50 GROSS
EXERCISE ROOMS	50 GROSS
MERCANTILE	60 GROSS
OUTDOOR ASSEMBLY AREAS †	15 NET
PARKING GARAGE	200 GROSS
RESIDENTIAL	200 GROSS
SWIMMING POOL	50 GROSS
SWIMMING POOL DECK	15 GROSS

† THE OCCUPANT LOAD OF SUCH OUTDOOR AREAS SHALL BE ASSIGNED BY THE BUILDING OFFICIAL IN ACCORDANCE WITH THE ANTICIPATED USE.
†† WHERE APPROVED BY THE AHJ, ACTUAL OCCUPANT LOAD, BUT NOT LESS THAN 50 OLF.

0' 8' 16' 32'

1/16"=1'-0"

EGRESS DIAGRAM - FLOOR 8

AP0.19

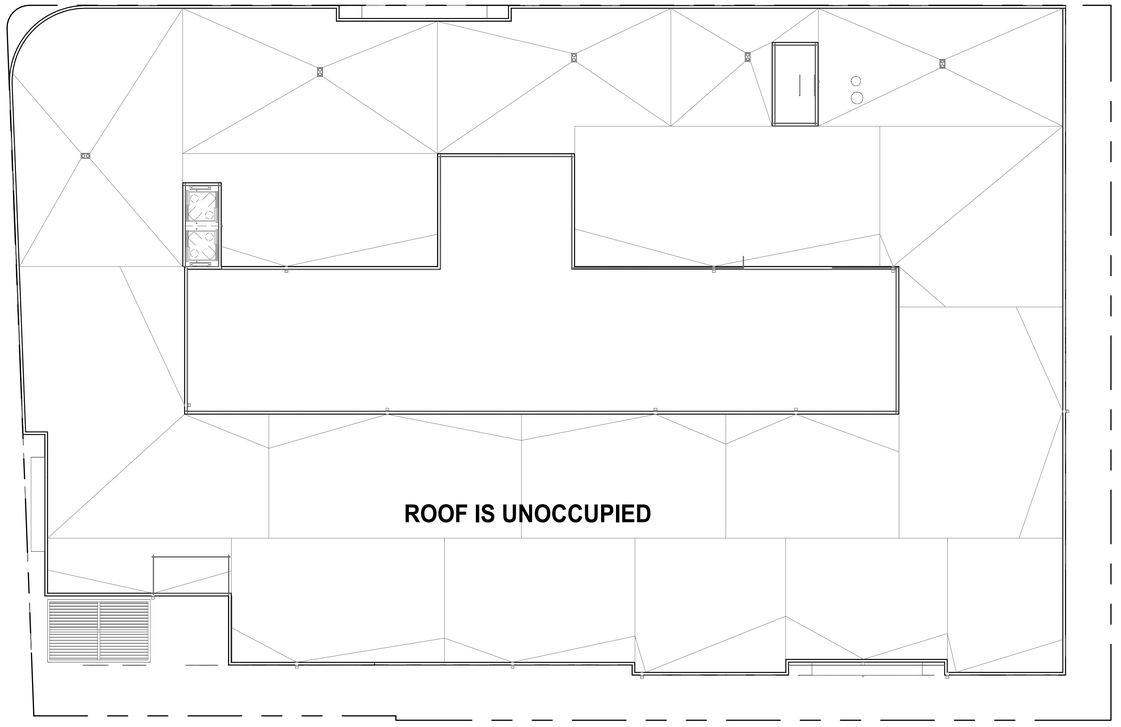
BDE ARCHITECTURE | URBAN CATALYST | LANGAN | Kimley»Horn

THE GIFFORD (H25-039)

BMR UNITS

APRIL 27, 2026

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LEGEND

39	EXIT OCCUPANT LOAD
39 H.E.	EXIT OCCUPANT LOAD @ HORIZONTAL EXIT
39	EXIT CUMULATIVE OCCUPANT LOAD
39	EXIT DISCHARGE OCCUPANT LOAD

TABLE 1004.5 MAX AREA ALLOWANCES PER OCCUPANT	
FUNCTION OF SPACE	OCCUPANT LOAD FACTOR
ACCESSORY SPACES, STORAGE, MECHANICAL, ELECTRICAL, ETC.	300 GROSS
ASSEMBLY WITHOUT FIXED SEATS, UNCONCENTRATED	15 NET
BUSINESS AREAS (STANDARD)	150 GROSS
BUSINESS AREAS (CONCENTRATED) ††	>50 GROSS
EXERCISE ROOMS	50 GROSS
MERCANTILE	60 GROSS
OUTDOOR ASSEMBLY AREAS †	15 NET
PARKING GARAGE	200 GROSS
RESIDENTIAL	200 GROSS
SWIMMING POOL	50 GROSS
SWIMMING POOL DECK	15 GROSS

† THE OCCUPANT LOAD OF SUCH OUTDOOR AREAS SHALL BE ASSIGNED BY THE BUILDING OFFICIAL IN ACCORDANCE WITH THE ANTICIPATED USE.
†† WHERE APPROVED BY THE AHJ, ACTUAL OCCUPANT LOAD, BUT NOT LESS THAN 50 OLF.

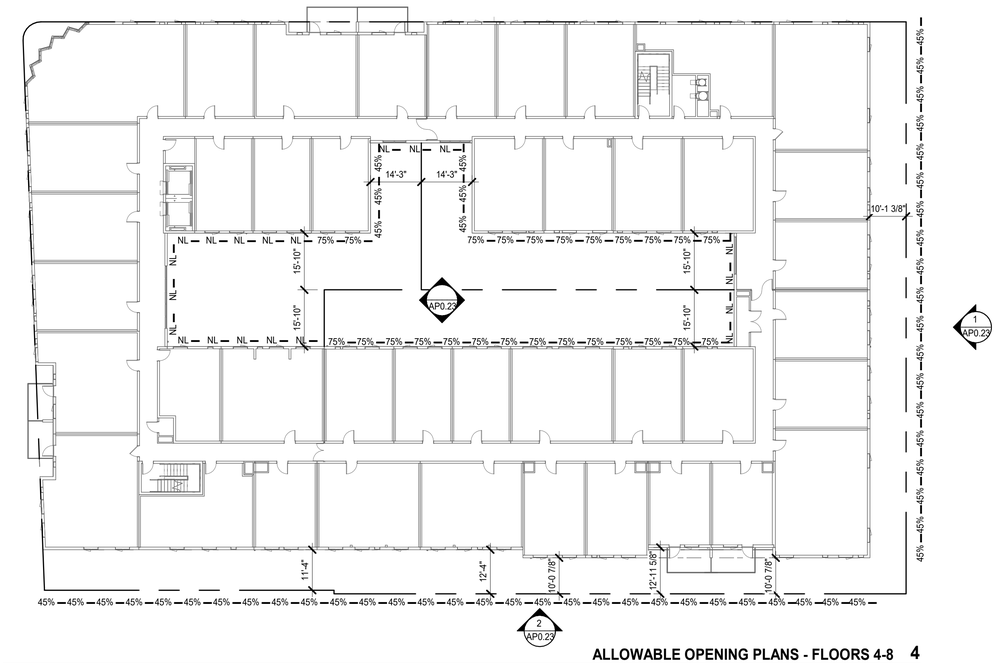
0' 8' 16' 32'

TRUE PROJ. NORTH/GRID NORTH

1/16"=1'-0"

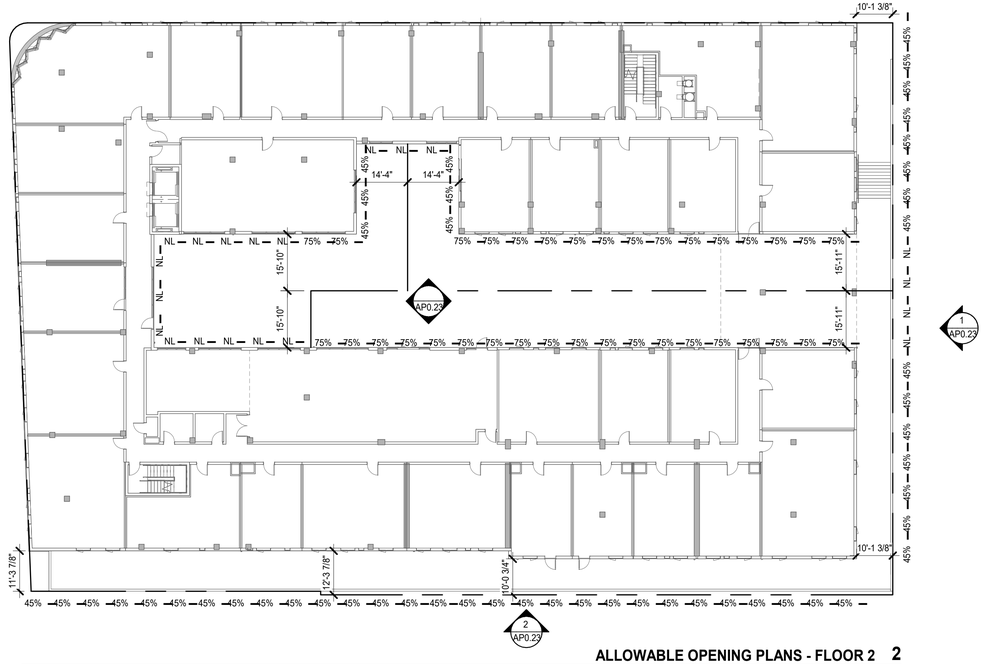
EGRESS DIAGRAM - ROOF AP0.20

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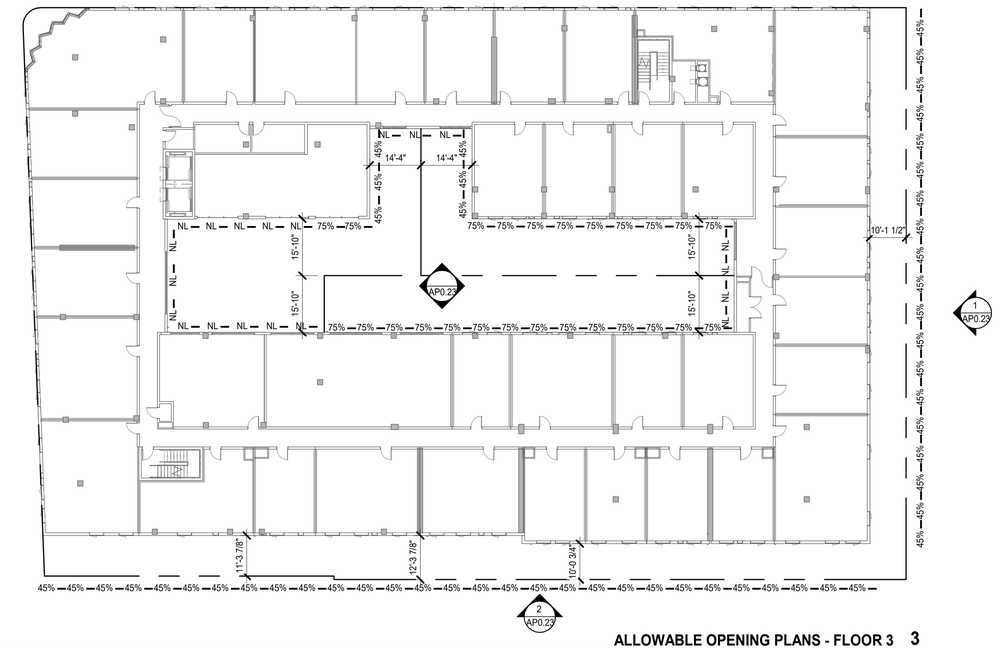
ALLOWABLE OPENING PLANS - FLOORS 4-8 **4**

1" = 20'-0"



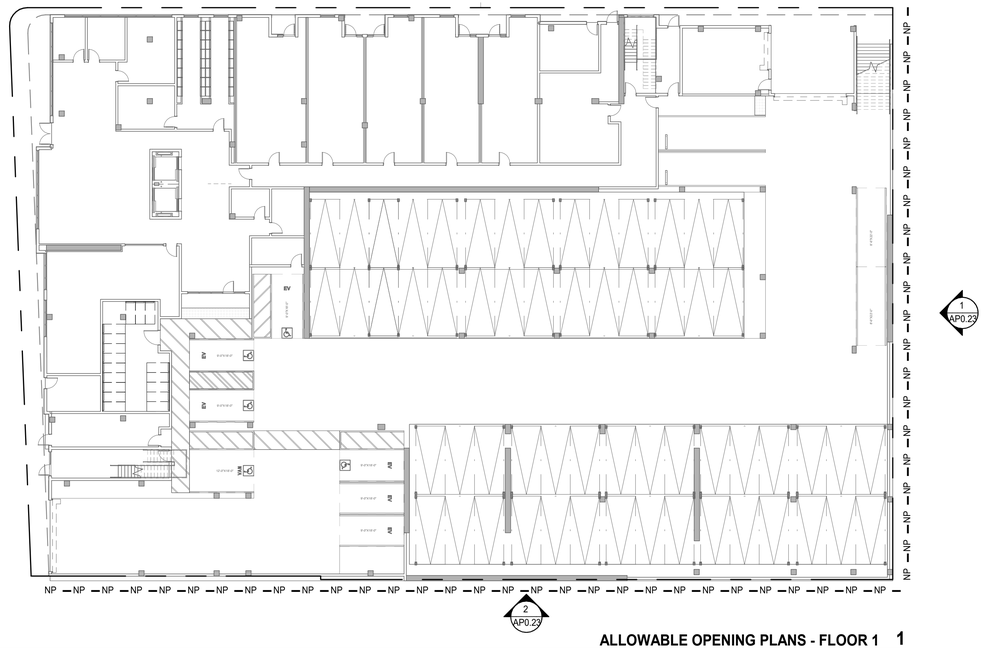
ALLOWABLE OPENING PLANS - FLOOR 2 **2**

1" = 20'-0"



ALLOWABLE OPENING PLANS - FLOOR 3 **3**

1" = 20'-0"



ALLOWABLE OPENING PLANS - FLOOR 1 **1**

1" = 20'-0"

GENERAL NOTES

CBC TABLE 705.8

MAXIMUM AREA OF EXTERIOR WALL OPENINGS BASED ON FIRE SEPARATION DISTANCE WITH UNPROTECTED OPENINGS IN BUILDINGS EQUIPPED THROUGHOUT WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH SECTION 903.3.1.1.

OPENING PERCENTAGE IS CALCULATED AS FOLLOWS:

(WIDTH OF OPENING x HEIGHT OF OPENING) x 100
WIDTH OF WALL x HEIGHT OF WALL

LEGEND - PLANS

	SEPARATION DISTANCE	ALLOWABLE OPENING AREA
NP NP NP	0 FT < 3 FT	NOT PERMITTED
15% 15% 15%	3 FT < 5 FT	15%
25% 25% 25%	5 FT < 10 FT	25%
45% 45% 45%	10 FT < 15 FT	45%
75% 75% 75%	15 FT < 20 FT	75%
NL NL NL	> 20 FT	NO LIMIT

LEGEND - ELEVATIONS

	SEPARATION DISTANCE	ALLOWABLE OPENING AREA
	0 FT < 3 FT	NOT PERMITTED
	3 FT < 5 FT	15%
	5 FT < 10 FT	25%
	10 FT < 15 FT	45%
	15 FT < 20 FT	75%
	> 20 FT	NO LIMIT
	OPENING AREA	

0' 20' 40'

TRUE PROJ NORTH

1"=20'

ALLOWABLE OPENINGS DIAGRAM - PLANS **AP0.22**

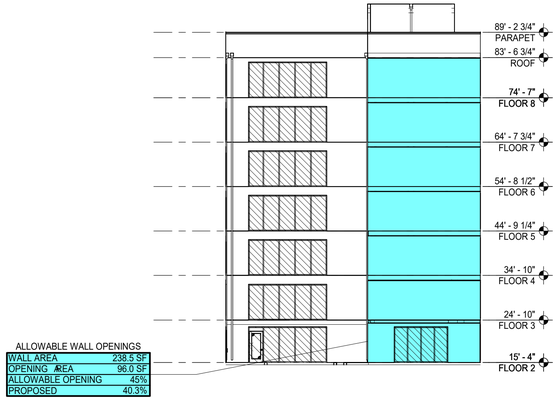
BDE ARCHITECTURE | URBAN CATALYST | LANGAN | Kimley»Horn

THE GIFFORD (H25-039)

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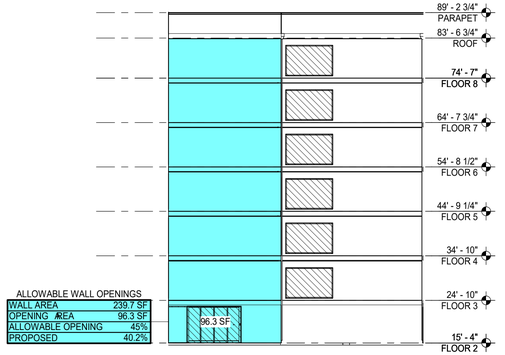
APRIL 27, 2026

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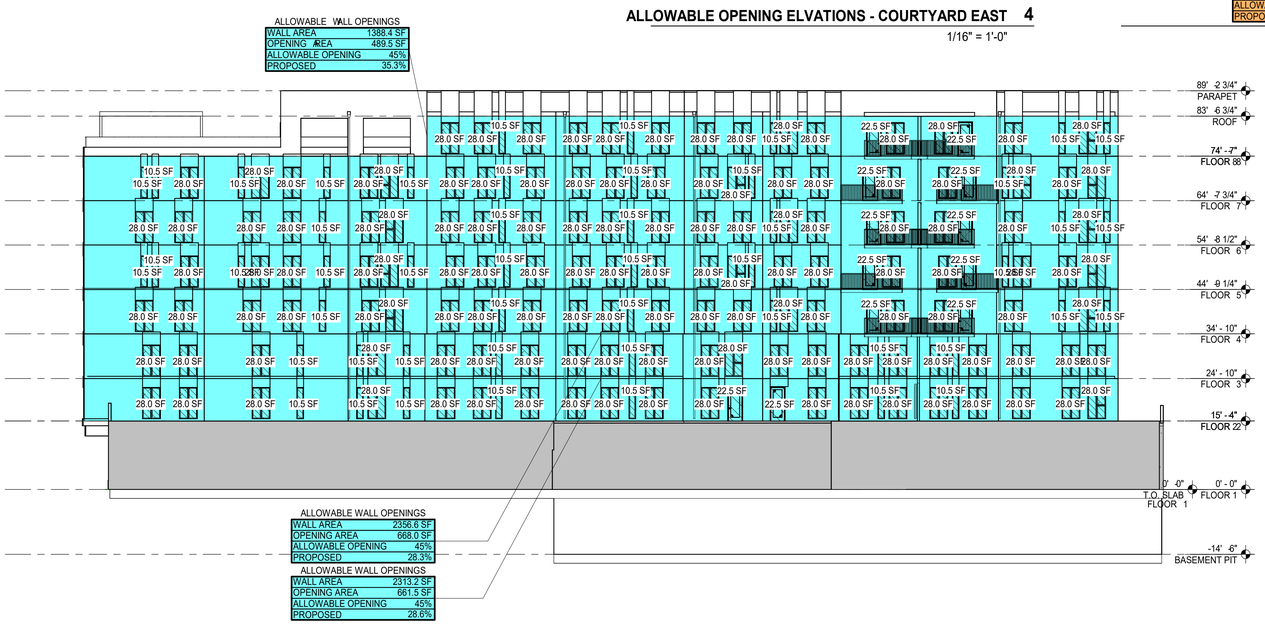
ALLOWABLE OPENING ELEVATIONS - COURTYARD WEST 6

1/16" = 1'-0"



ALLOWABLE OPENING ELVATIONS - COURTYARD EAST 4

1/16" = 1'-0"



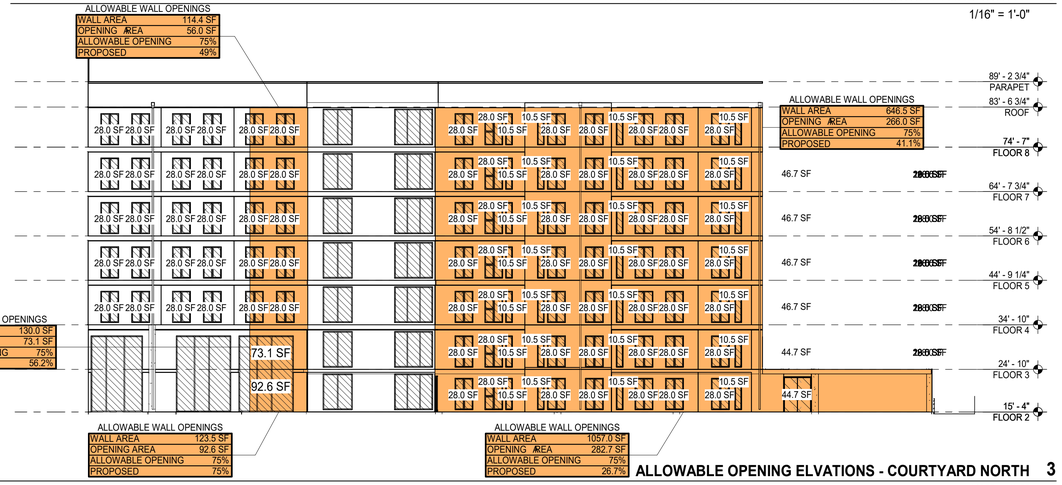
ALLOWABLE OPENING ELEVATIONS - SOUTH 2

1/16" = 1'-0"



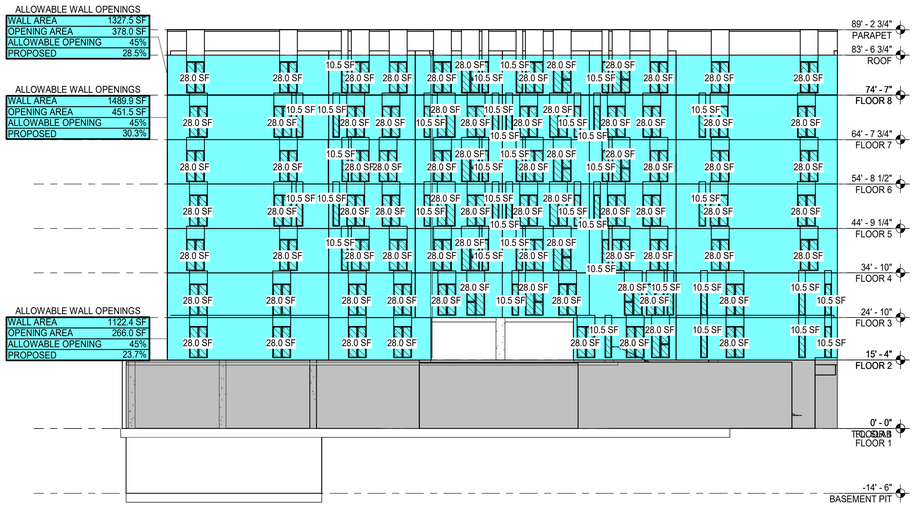
ALLOWABLE OPENING ELVATIONS - COURTYARD SOUTH 5

1/16" = 1'-0"



ALLOWABLE OPENING ELVATIONS - COURTYARD NORTH 3

1/16" = 1'-0"



ALLOWABLE OPENING ELEVATION - EAST 1

1/16" = 1'-0"

0' 8' 16' 32'

GENERAL NOTES

CBC TABLE 705.8

MAXIMUM AREA OF EXTERIOR WALL OPENINGS BASED ON FIRE SEPARATION DISTANCE WITH UNRPOTECTED OPENINGS IN BUILDINGS EQUIPPED THROUGHOUT WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH SECTION 903.3.1.1.

OPENING PERCENTAGE IS CALCULATED AS FOLLOWS:

(WIDTH OF OPENING x HEIGHT OF OPENING) x 100
WIDTH OF WALL x HEIGHT OF WALL

LEGEND - PLANS

	SEPARATION DISTANCE	ALLOWABLE OPENING AREA
NP NP NP	0 FT < 3 FT	NOT PERMITTED
15% 15% 15%	3 FT < 5 FT	15%
25% 25% 25%	5 FT < 10 FT	25%
45% 45% 45%	10 FT < 15 FT	45%
75% 75% 75%	15 FT < 20 FT	75%
NL NL NL	> 20 FT	NO LIMIT

LEGEND - ELEVATIONS

	SEPARATION DISTANCE	ALLOWABLE OPENING AREA
	0 FT < 3 FT	NOT PERMITTED
	3 FT < 5 FT	15%
	5 FT < 10 FT	25%
	10 FT < 15 FT	45%
	15 FT < 20 FT	75%
	> 20 FT	NO LIMIT
	OPENING AREA	

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CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Variance Application

Fees must be submitted with application for a 3-hour minimum

San José Fire Department
Bureau of Fire Prevention
200 E. Santa Clara St., 2nd Fl. Tower
San José, CA 95113-1905
Phone: (408) 535-7750

Plan Check # _____ **Variance Folder #** _____

Type: Fire Protection ☒ Hazardous Materials ☐

PROJECT INFORMATION

Project Name: The Gifford

Address: 325 Gifford Avenue / 466 West San Carlos St. City: San Jose Zip: 95126

Type of Construction: 5 levels of Type III-A over 3 levels of Type I-A Sprinklered: Yes ☒ No ☐

Building Floor Area: about 232,000 sf total Tenant Area: about 232,000 sf total Number of Stories: 8

Describe Use: 8 Story mid-rise, multifamily residential building, with parking areas at the ground floor. Building design based on the podium provisions in CBC Section 510.2.

1. Code Requirement (Include code reference and deficiency)

2025 CFC Section 503.1 and Section 507.5.1. Section 503.1 requires exterior walls to be within 150 feet of a fire apparatus access road, and Section 507.5.1 requires exterior walls to be within 400 feet of a hydrant.

2. Variance Proposed (A brief description shall be included even if additional documents are attached)

The exterior walls on the south and east side of the building are located up to 210 feet from the fire apparatus access roads on the north and west sides of the site. The design proposes to increase the sprinkler protection to increase the protection provided.

3. Justification (A brief description shall be included even if additional documents are attached)

The design proposes to increase the sprinkler protection provided by increasing the hazard classification for the sprinklers throughout, increasing the suppression capabilities of the system. See Attached Report for additional details.

APPLICANT INFORMATION

Brian Gagnon | Brian Gagnon TFC | 4/2/2026

Requested by (Print Name) | Signature | Date

Email: bgagnon@thefireconsultants.com Phone: 925-323-0010

Note: Attach plans showing the details of the proposed variance and copies of any reference, test reports, expert opinion, etc. **Submit all documents, including plans in 11x17 or 8.5x11 format.** The Fire Chief may require that a consultant be hired by the applicant to perform all applicable test, research and analysis and submit a full report of evaluation to the Fire Department for consideration and approval.

Additional City Requirements or Notes:

Reviewed by Inspector/Engineer | Fire Marshal Signature | Denied ☐ Approved ☐ | Date

The Fire Consultants, Inc.

SAN JOSE FIRE DEPARTMENT VARIANCE APPLICATION
FIRE DEPARTMENT ACCESS

The Gifford
325 Gifford Avenue
San Jose, CA 95126

Date: April 2, 2026

Building Description: This request addresses the proposed fire apparatus access road and site access approach for the new mid-rise residential building proposed at the corner of Gifford Avenue and San Carlos Street in San Jose. The project is a new building being designed based on the 2025 California Building Code (CBC) and California Fire Code (CFC), with City of San Jose amendments. The building will include the main entry lobby, parking, and residential areas on the first floor, with 7 levels of primarily residential use on floors 2 – 8 with associated support areas. The project design is based on the podium provisions in CBC Section 510.2, with floors 1 – 3 being of Type I-A construction and floors 4 – 8 being of Type III-A construction. The building includes about 89,500 square feet of Type I-A construction, and 142,500 square feet of Type III-A construction. The design includes a 3-hour horizontal podium separation between levels 3 and 4. The building is sprinkler protected throughout, and includes standpipes in the exit stairs. The building height, measured to the floor of the highest occupied story (8th floor) is less than 75 feet, such that the building is not required to be classified as a high-rise.

Code Section: 2025 California Fire Code (CFC) Section 503.1 and Section 507.5.1.

Code Requirement: CFC Section 503 requires that the exterior walls of the building be located within 150 feet of a fire apparatus access road around the site. CFC Section 507.5.1 requires that all portions of the exterior walls be within 400 feet of a fire hydrant on a fire apparatus access road, measured by an approved route around the exterior, or requires on-site fire hydrants and mains and access. The City of San Jose typically requires a 6-foot-wide exterior pathway from

2890 North Main, Suite 210 ph: (925) 979.9993 internet:
Walnut Creek, CA 94596 fax: (925) 979.9994 www.thefireconsultants.com

the fire apparatus access roads to the exterior walls for fire department access purposes.

Request / Justification: The proposed project is located at the corner of San Carlos Street and Gifford Street, and the building fronts onto these streets on the west and north sides, respectively. The south and east sides of the development are located close to the property lines, opposite other buildings. The site configuration is such that portions of the exterior façade are up to 210 feet from the fire apparatus access roads (San Carlos Street and Gifford Street). The design also does not include a clear 6-foot pedestrian path at grade around the perimeter of the project on the south and east sides of the property on the project site. The design requests to increase the distance from the fire apparatus access roads to the northeast portions of the exterior wall to 210 feet, and to omit the grade level pathway along the south and east sides of the building on the property.

The project will include an open exterior stair on the east side of the project, which leads up from Gifford Avenue, to an exterior plaza / court space at level 2. The design includes exterior balcony / terrace areas on the south and east sides of the building, which can be used by the fire department to conduct exterior firefighting operations from level 2, if necessary.

The building will be sprinkler protected throughout. The design proposes to increase the design density of the fire sprinkler protection throughout. This will be done by increasing the hazard classification by at least one category per NFPA 13 and/or doubling the amount of sprinklers required to be considered in the design area of the residential units, to increase the suppression capability of this system, except at the car stacker areas in the grade level parking garage. The sprinkler increases proposed are summarized in the table below.

Building Use	NFPA 13 Classification	Proposed Design Classification
Residential	Light Hazard, or 4 most remote sprinklers	0.1 gpm per square foot for up to 8 sprinklers
Office / Admin / Corridor	Light Hazard	Ordinary Group 1 Hazard
Lounge Areas	Light Hazard	Ordinary Group 1 Hazard
Parking (Non-car stacker areas)	Ordinary Group 1 Hazard	Ordinary Group 2 Hazard
Parking (Car stacker areas)	Car stacker areas to be protected per City of San Jose Fire Department Car Stacker Requirements.	
Mechanical Rooms	Ordinary Group 1 Hazard	Ordinary Group 2 Hazard
Storage [a]	Ordinary Group 2 Hazard	Extra Hazard Group 1

a. Storage areas on upper levels limited to accessory spaces, which will be protected as part of the overall Ordinary Hazard uses.

The sprinkler protection in the residential areas will be increased by doubling the amount of sprinklers considered in the design area from 4 to 8. The increased sprinkler protection will include sprinklers within closets and bathrooms, and the residential areas will be designed so that the allowable shadow area within the residences will be a maximum of 2 square feet. The sprinkler design for the building will not be based on the room design method. The added sprinkler protection will increase the suppression capabilities of the system and limit the likelihood of large fires within the building.

As part of the proposed design approach, the project will also include smoke detectors within the residential corridors and the residential common areas, to provide early detection and notification of potential fire events.

The site configuration is also such that all of the exterior walls are located less than 400 feet from a fire hydrant. However, the path to exterior walls requires access from the adjacent lots or from the open stair and along the podium level.

Conclusion: This variance requests an increase in the distance between the fire apparatus access roads on the south and west sides of the project site and the exterior walls on the north and east side of the building up to 210 feet. The increased sprinkler protection will limit the size of potentials fires, limiting the adverse impacts associated with the fire apparatus and fire department site access approach.

Prepared by:

4/2/2026
Brian D. Gagnon Date

BDG/JRS:bg
20-2333 / RQ The Gifford Fire Department Access

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0' 20' 40'

1"=20'

SITE PLAN

AP1.00

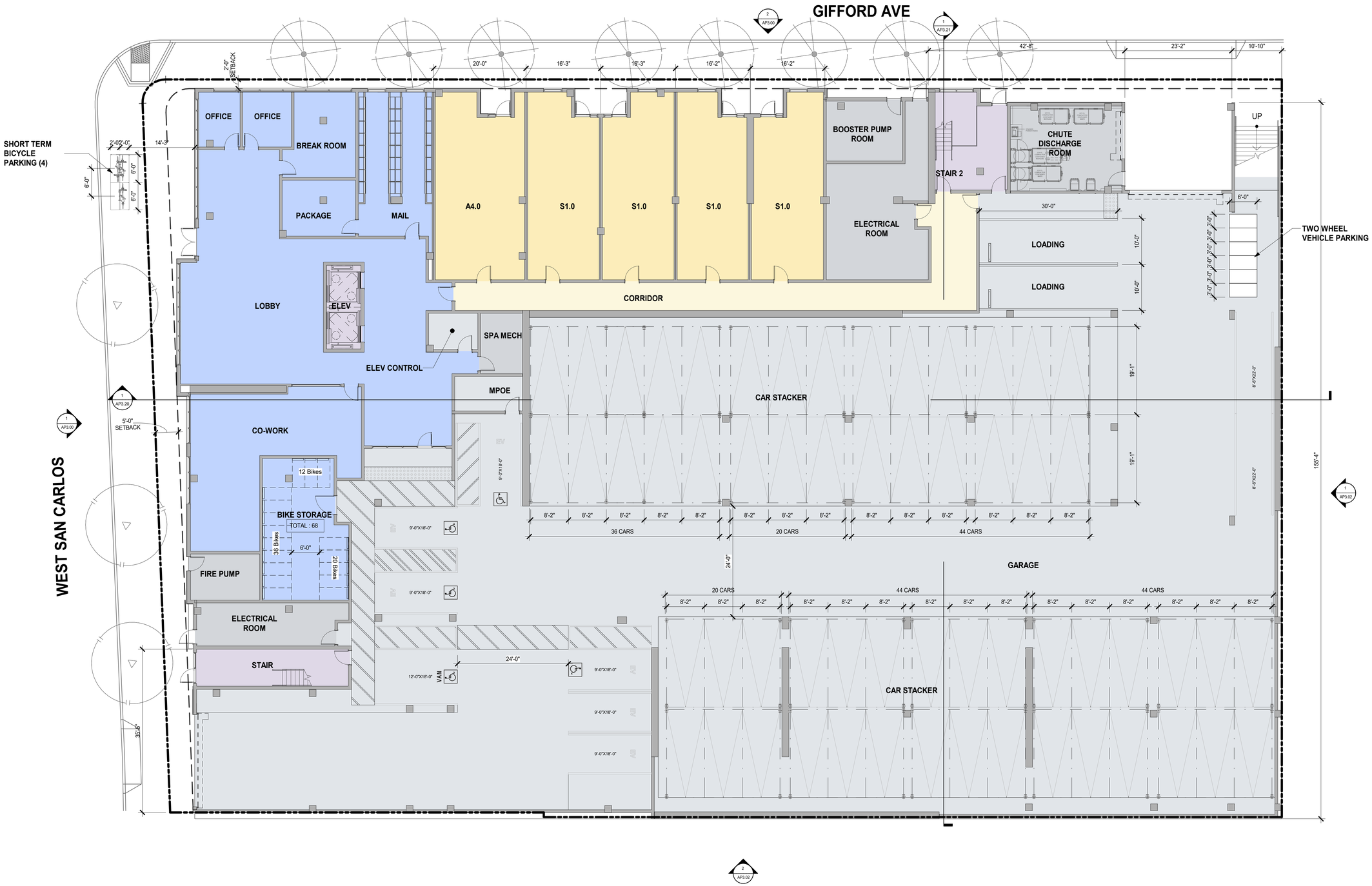
BDE ARCHITECTURE | URBAN CATALYST | LANGAN | Kimley»Horn

THE GIFFORD (H25-039)

BMR UNITS

APRIL 27, 2026

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0' 10' 20'

1"=10'

FLOOR 1 - PLAN

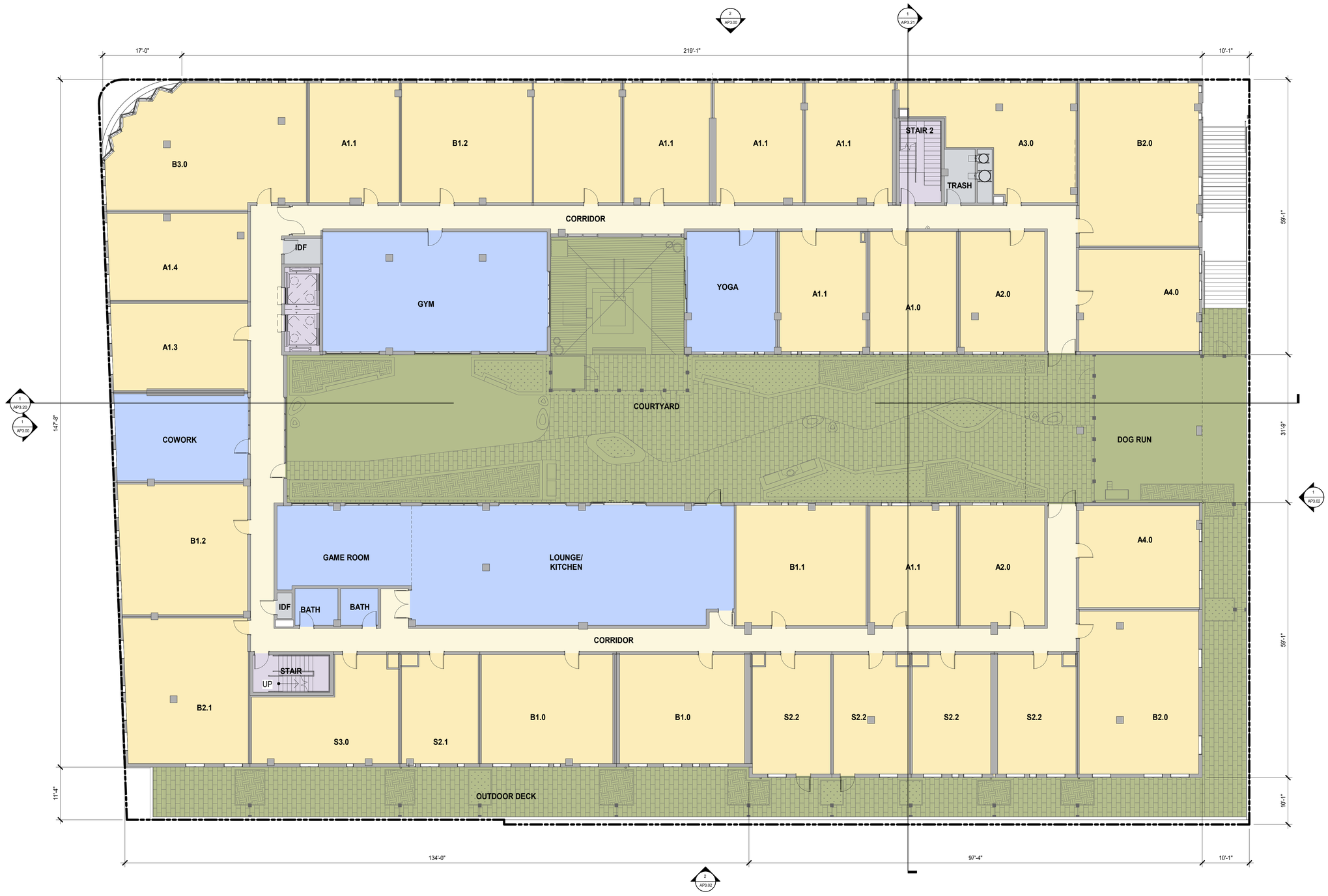
AP2.01

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0' 10' 20'

1"=10'

FLOOR 2 - PLAN AP2.02

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THE GIFFORD (H25-039)

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0' 10' 20'

1"=10'

TRUE PROJ NORTH

FLOOR 3 - PLAN

AP2.03

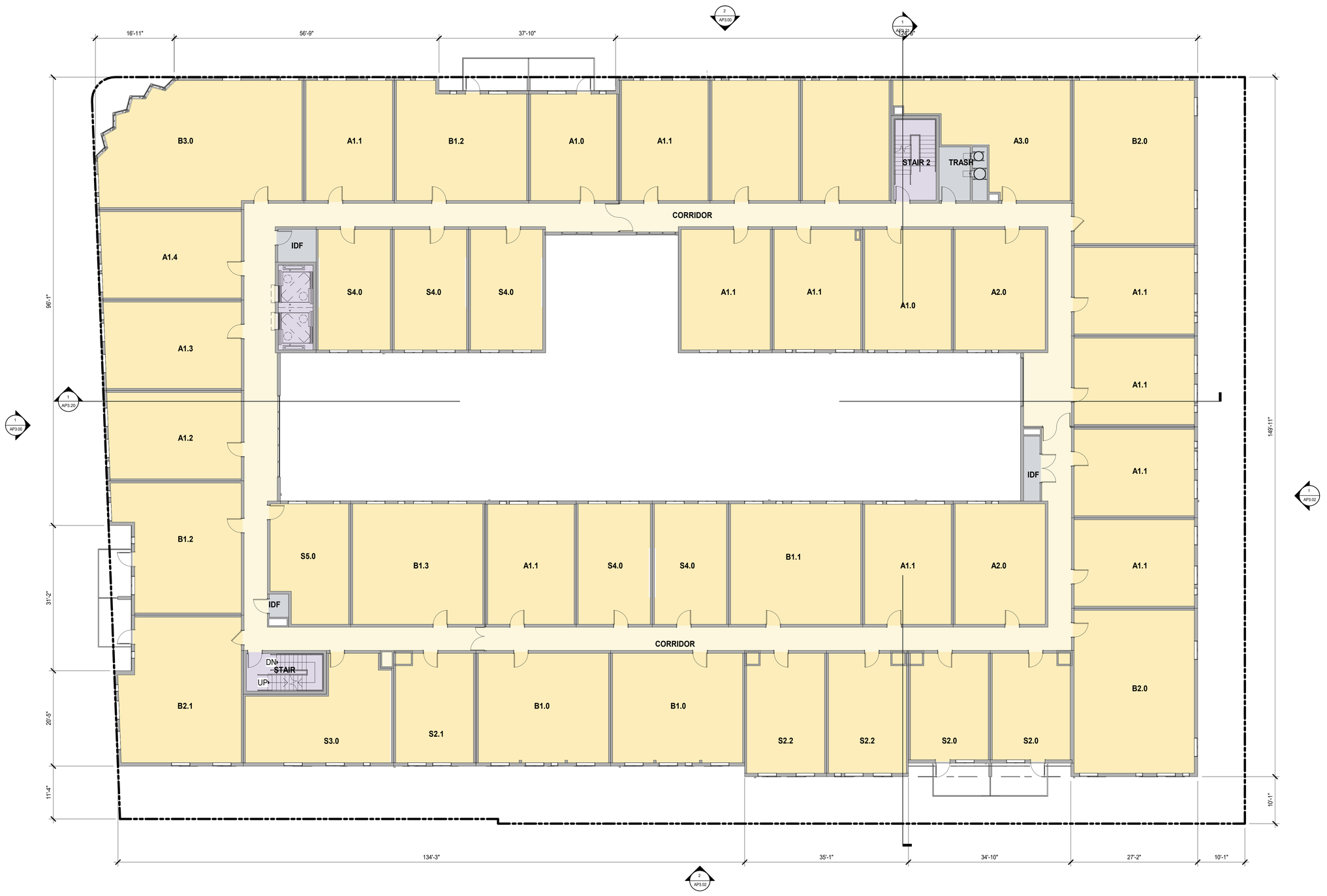
BDE ARCHITECTURE | URBAN CATALYST | LANGAN | Kimley»Horn

THE GIFFORD (H25-039)

BMR UNITS

APRIL 27, 2026

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0' 10' 20'

TRUE (PROJECT NORTH)

1"=10'

FLOOR 4 & 6 - PLAN

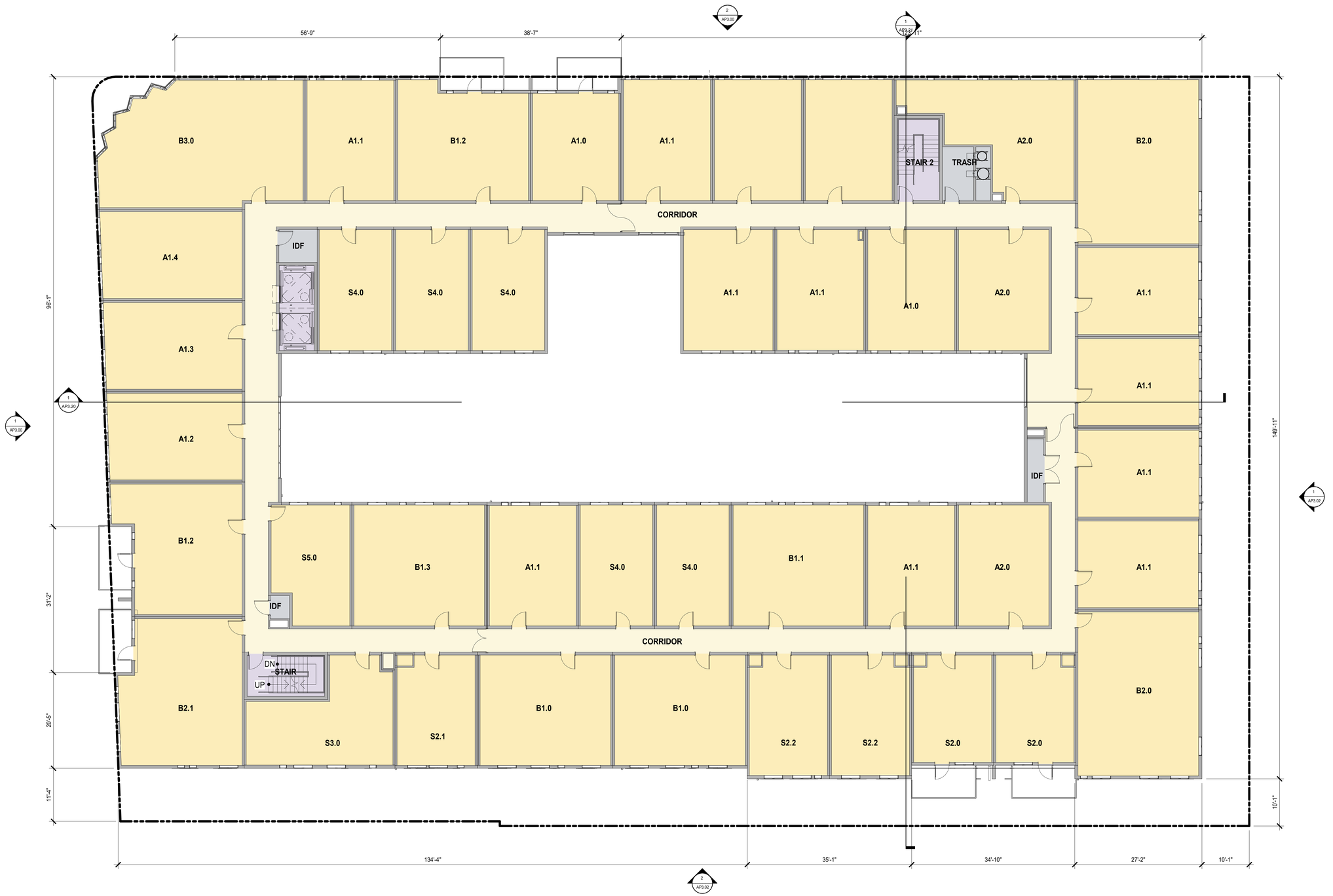
AP2.04

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APRIL 27, 2026

THE GIFFORD (H25-039)

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0' 10' 20'

1"=10'

TRUE PROJ NORTH/GRID NORTH

FLOOR 5 & 7 - PLAN

AP2.05

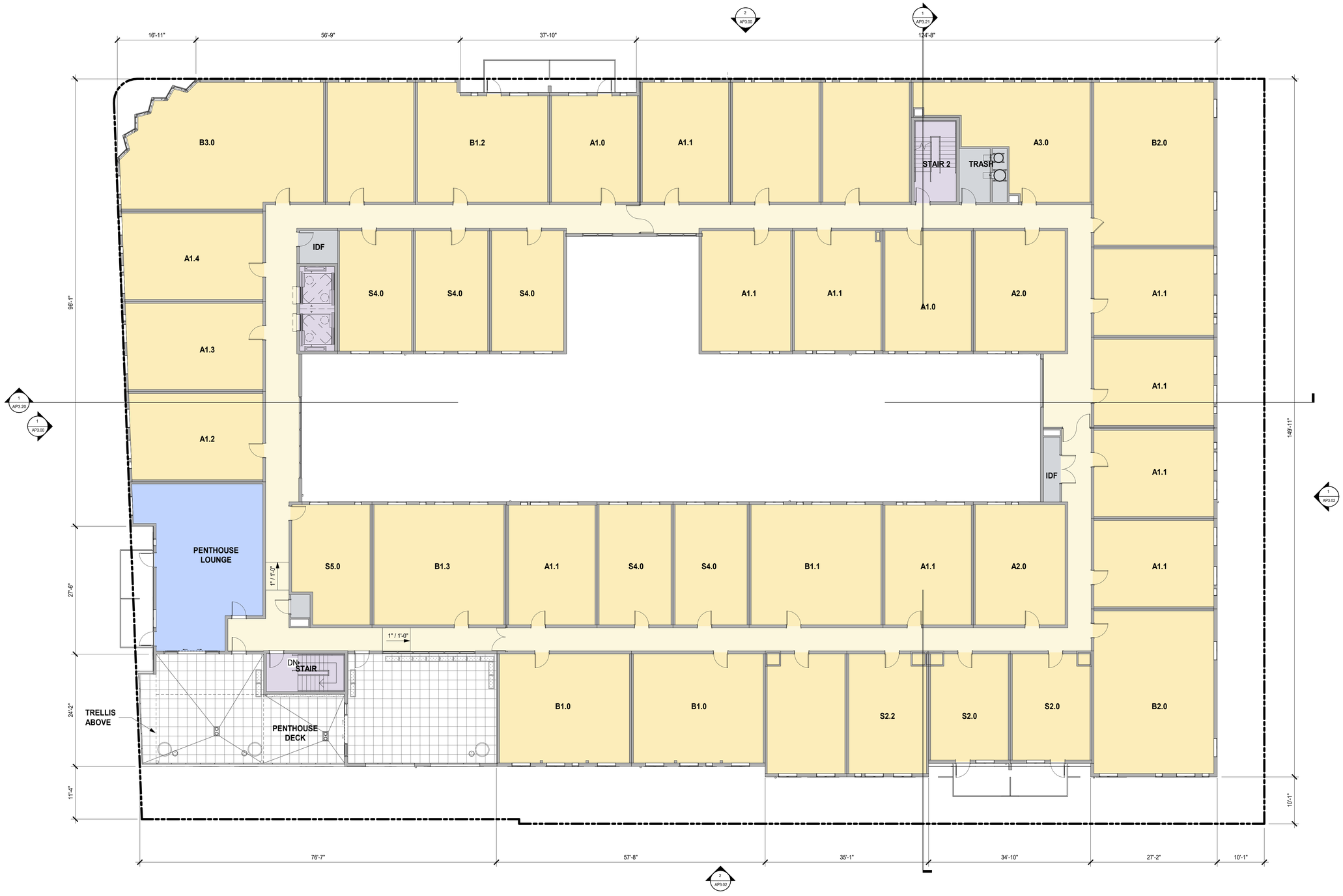
BDE ARCHITECTURE | URBAN CATALYST | LANGAN | Kimley»Horn

THE GIFFORD (H25-039)

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APRIL 27, 2026

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0' 10' 20'

TRUE (PROJECT NORTH)

1"=10'

FLOOR 8

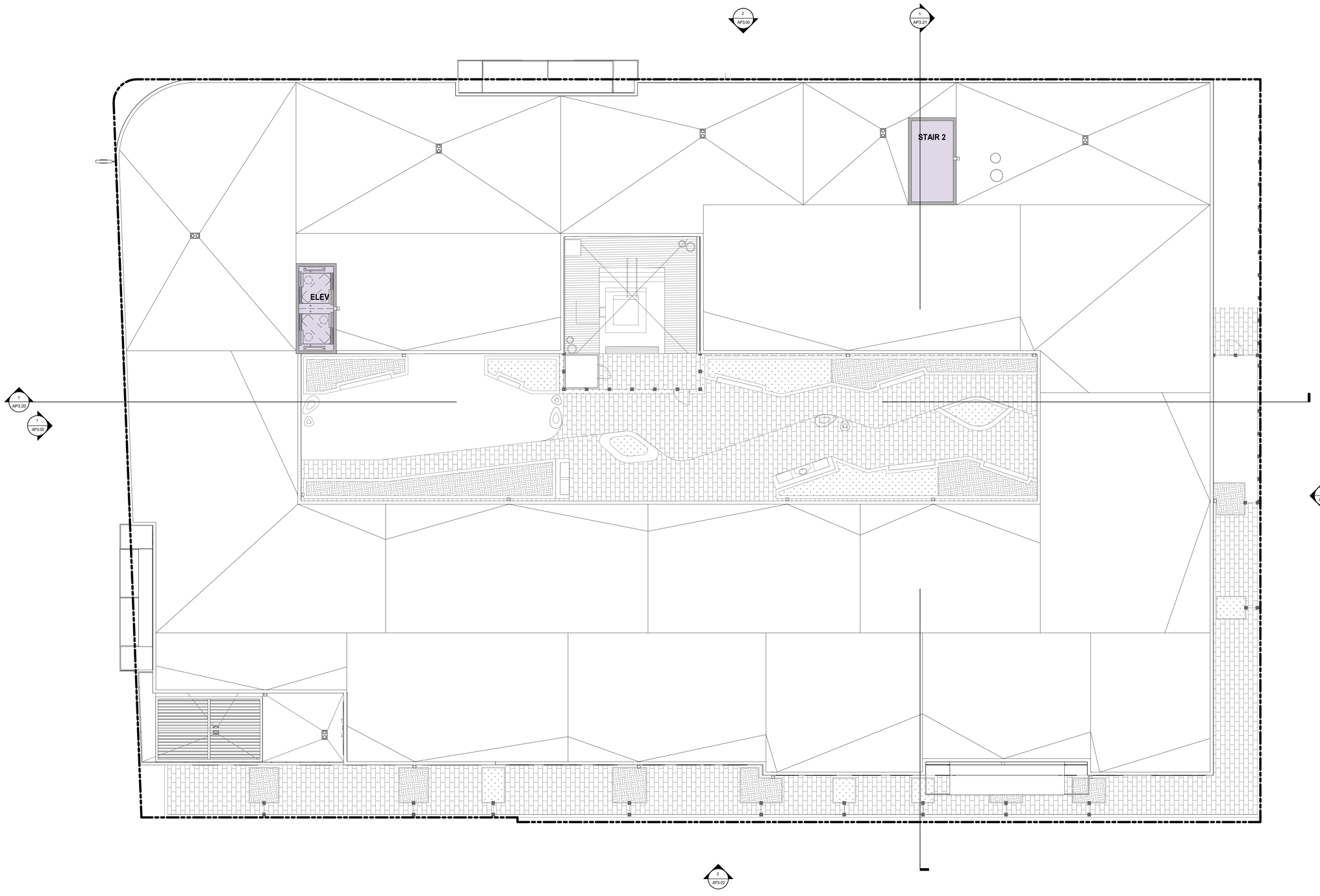
AP2.06

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0' 10' 20'

TRUE (TRU) NORTH

1"=10'

ROOF

AP2.07

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THE GIFFORD (H25-039)

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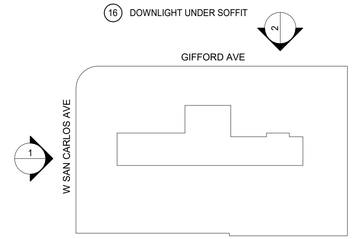
NORTH - BUILDING ELEVATION 2



WEST - BUILDING ELEVATION 1

MATERIAL LEGEND

1. STUCCO, WHITE
2. STUCCO, GRAY
3. STUCCO, BLUE
4. METAL TRELLIS
5. METAL PANEL, BLUE
6. ALUMINUM STOREFRONT - DARK BRONZE
7. VINYL WINDOW - DARK
8. METAL RAILING - DARK BRONZE
9. GLASS RAILING
10. GLASS MURAL
11. METAL AWNING
12. BUILDING SIGNAGE
13. CONCRETE WALL
14. CMU WALL
15. VENEER STONE
16. DOWNLIGHT UNDER SOFFIT



0' 4' 8' 16' 24'

TRUE / PROJECT NORTH

3/32"=1'-0"

NORTH/ WEST BUILDING ELEVATION AP3.00

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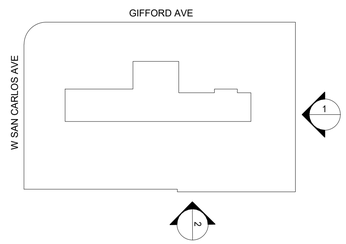
SOUTH - BUILDING ELEVATION 2



EAST - BUILDING ELEVATION 1

MATERIAL LEGEND

1. STUCCO, WHITE
2. STUCCO, GRAY
3. STUCCO, BLUE
4. METAL TRELLIS
5. METAL PANEL, BLUE
6. ALUMINUM STOREFRONT - DARK BRONZE
7. VINYL WINDOW - DARK
8. METAL RAILING - DARK BRONZE
9. GLASS RAILING
10. GLASS MURAL
11. METAL AWNING
12. BUILDING SIGNAGE
13. CONCRETE WALL
14. CMU WALL
15. VENEER STONE
16. DOWNLIGHT UNDER SOFFIT



0' 4' 8' 16' 24'

3/32"=1'-0"

SOUTH/ EAST ELEVATION AP3.02

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GENERAL NOTES:
1) MATERIALS SHOULD BE GRAFFITI-RESISTANT OR EASILY REPAINTED
2) USE HIGHLY-TRANSPARENT GLASS AT THE GROUND FLOOR.
3) USE GLASS ABOVE THE GROUND FLOOR THAT IS CLEAR IN COLOR OR WITH A SUBTLE COOL (BLUE, GREEN, OR GRAY) TINT

1 **STUCCO - WHITE**
BENJAMIN MOORE - SNOW WHITE



2 **STUCCO - GRAY**
BENJAMIN MOORE - CHARCOAL LINEN - 2133-40



3 **STUCCO - BLUE**
BENJAMIN MOORE - FINLEY BLUE - CW-620



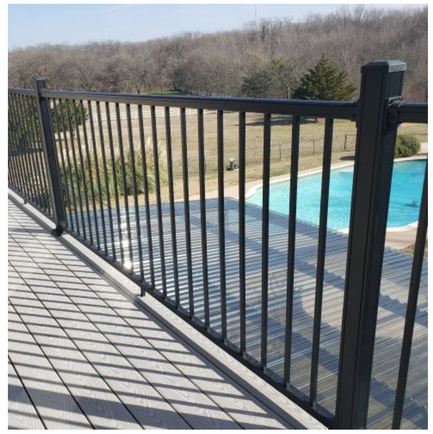
4 **METAL TRELLIS**



5 **METAL PANEL - BLUE**



6 **BREAK METAL - DARK BRONZE**
ALUMINUM STOREFRONT, METAL RAILING, AWNING



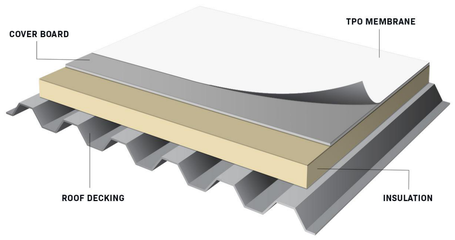
8 **METAL RAILING -DARK**



7 **VINYL WINDOW - DARK BRONZE**
(NO MIRRORED GLASS)



10 GLASS MURAL



11 **TPO ROOFING - WHITE**

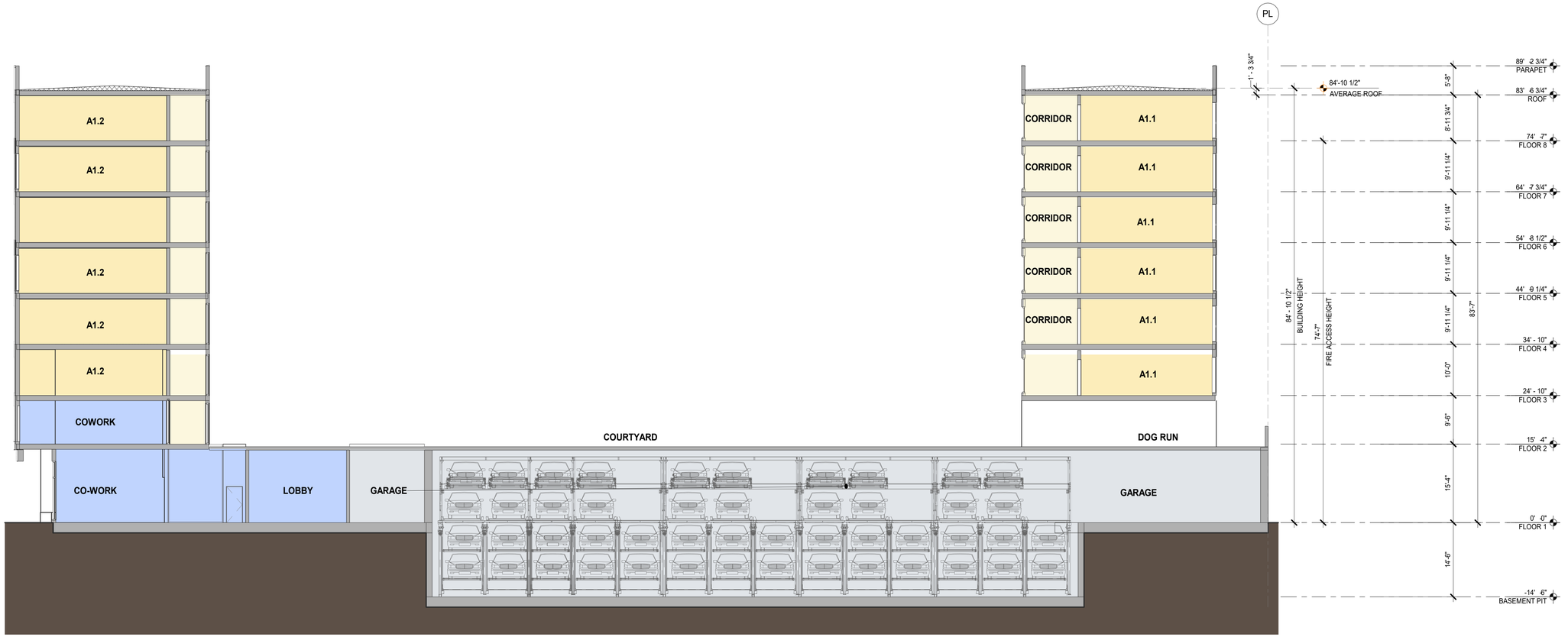
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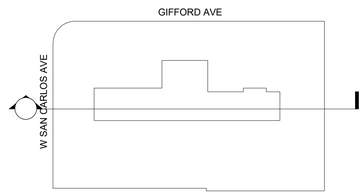


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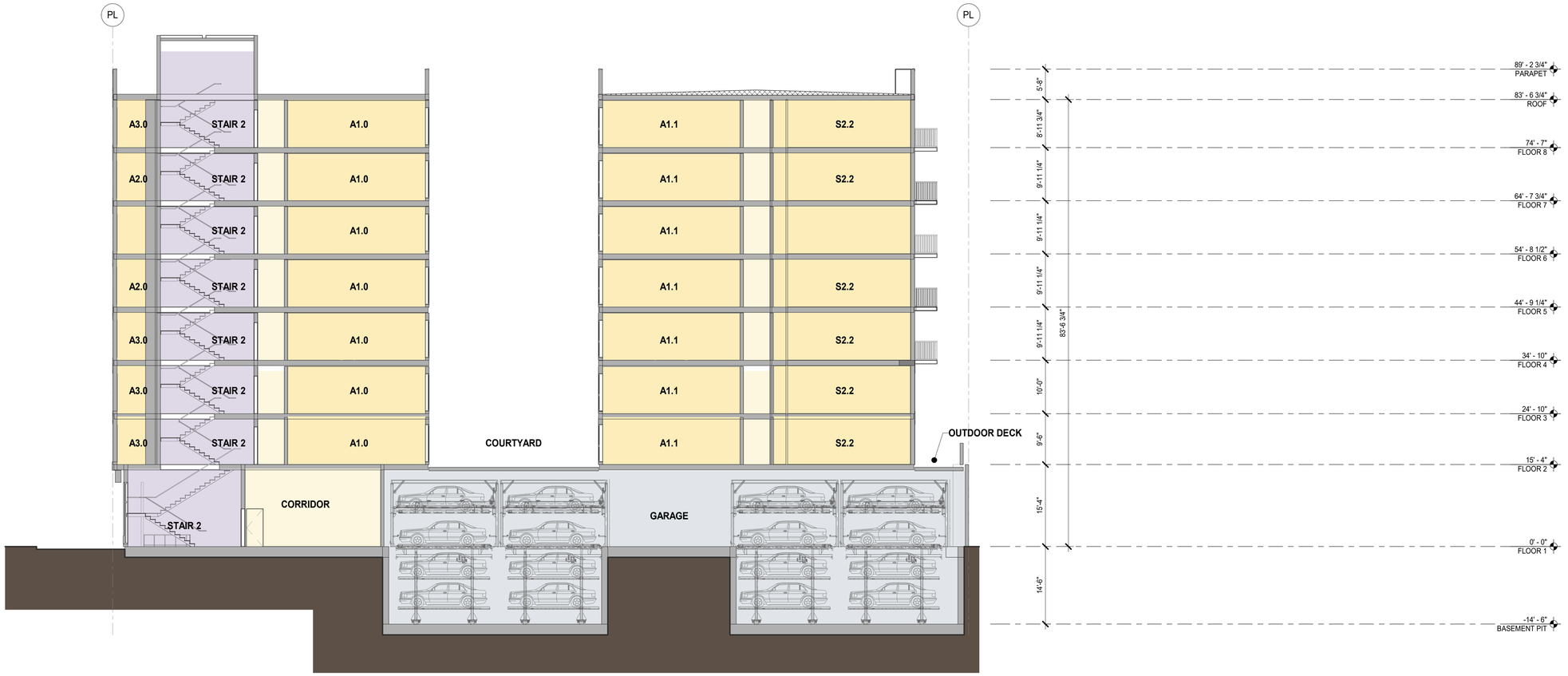


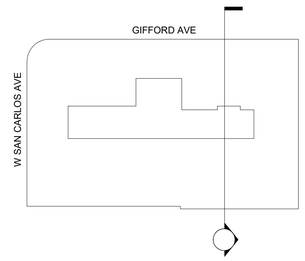
0' 4' 8' 16' 24'

SECTIONS 3/32"=1'-0" AP3.20

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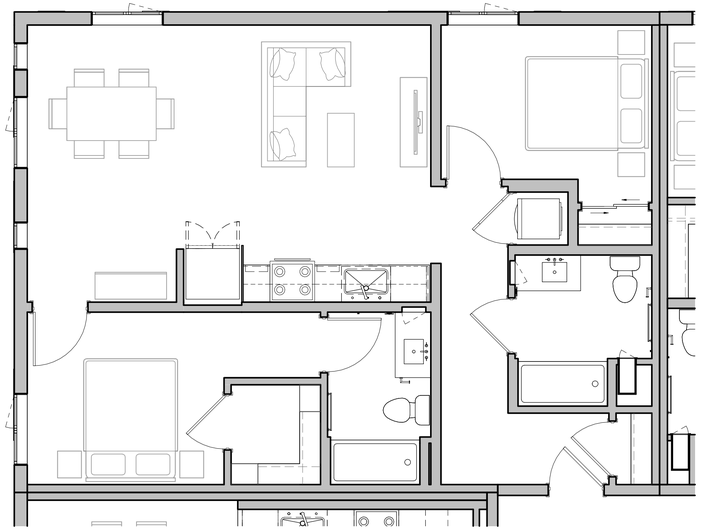


0' 4' 8' 16' 24'

SECTIONS 3/32"=1'-0" **AP3.21**

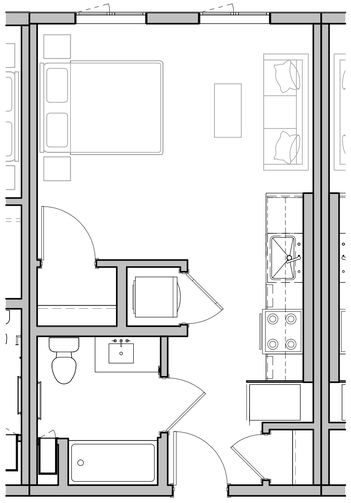
BMR UNITS APRIL 27, 2026

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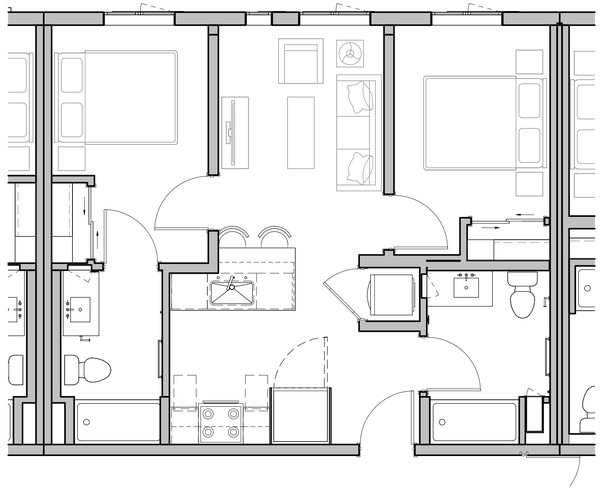
B2.2 6

1/4" = 1'-0"



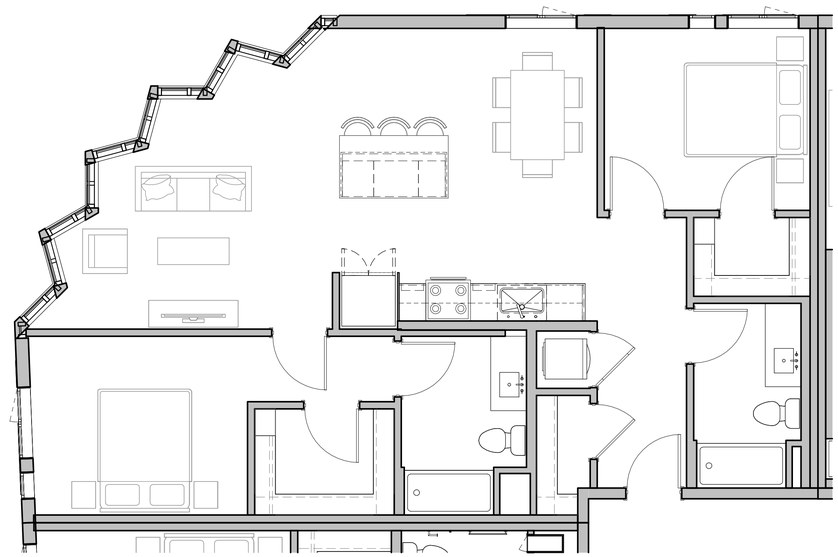
S4.0 4

1/4" = 1'-0"



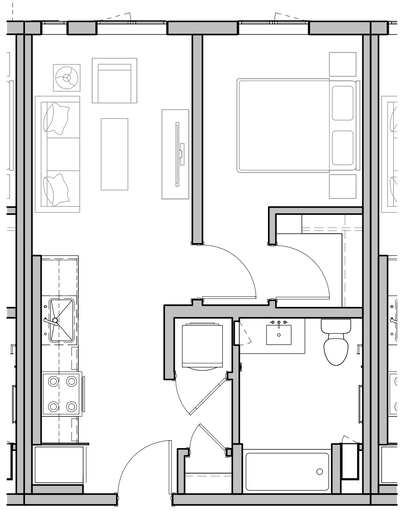
B1.0 2

1/4" = 1'-0"



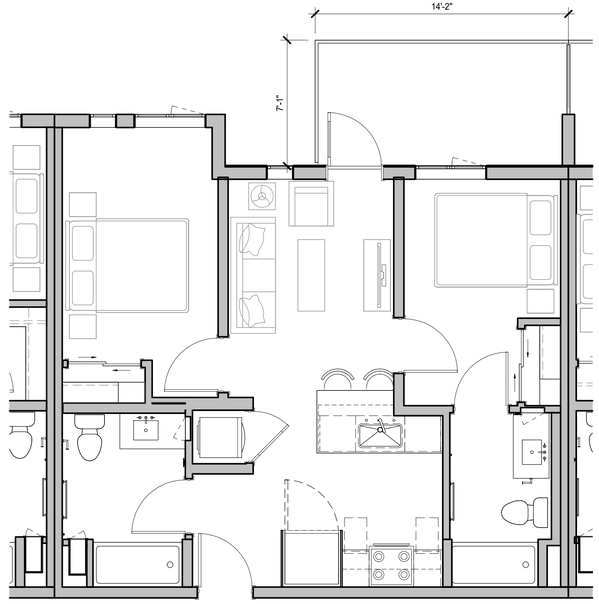
B3.0 5

1/4" = 1'-0"



A1.1 3

1/4" = 1'-0"



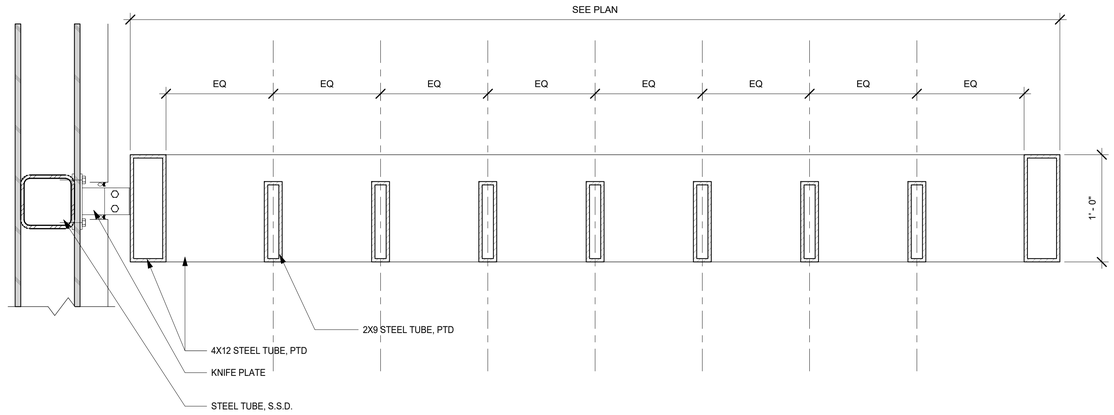
B1.2 1

1/4" = 1'-0"

0' 2' 4' 8'

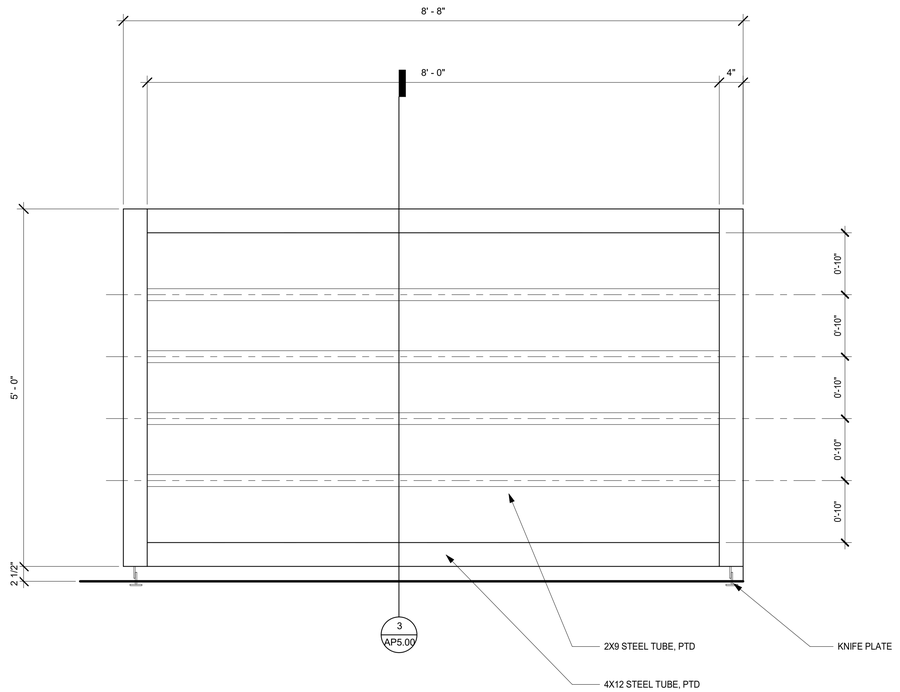
1/4"=1'-0"

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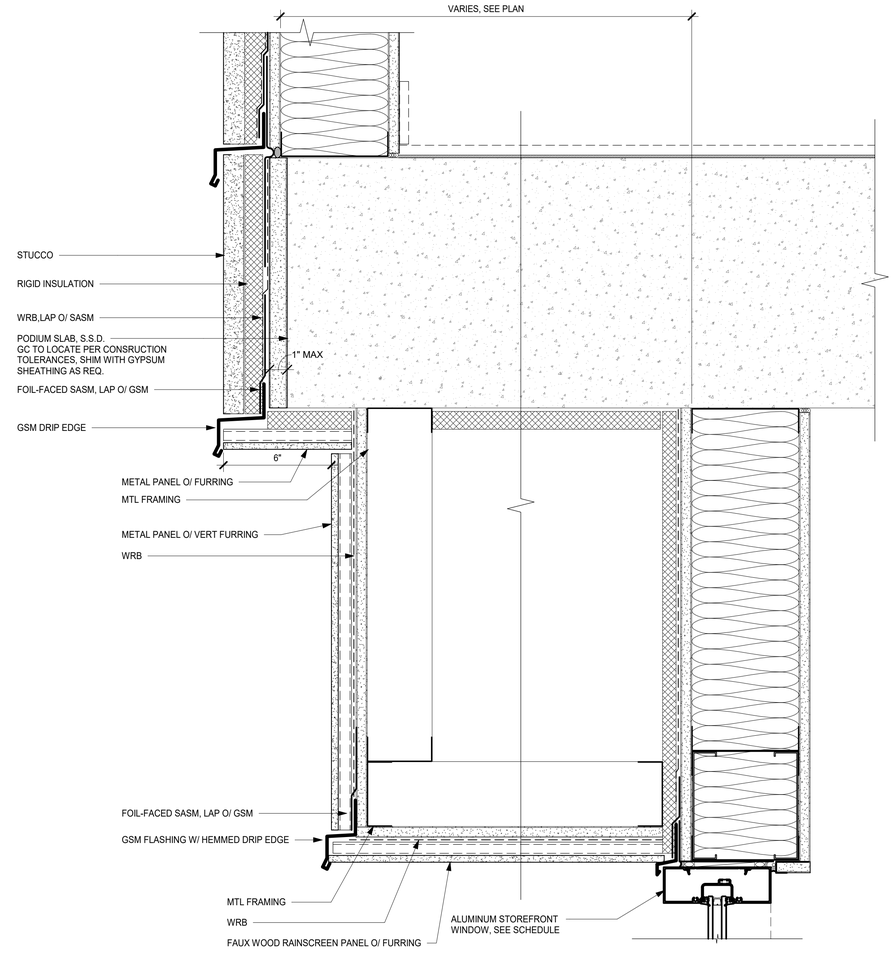
2 - AWNIG SECTION 2 3

1 1/2" = 1'-0"



1- AWNING PLAN 2

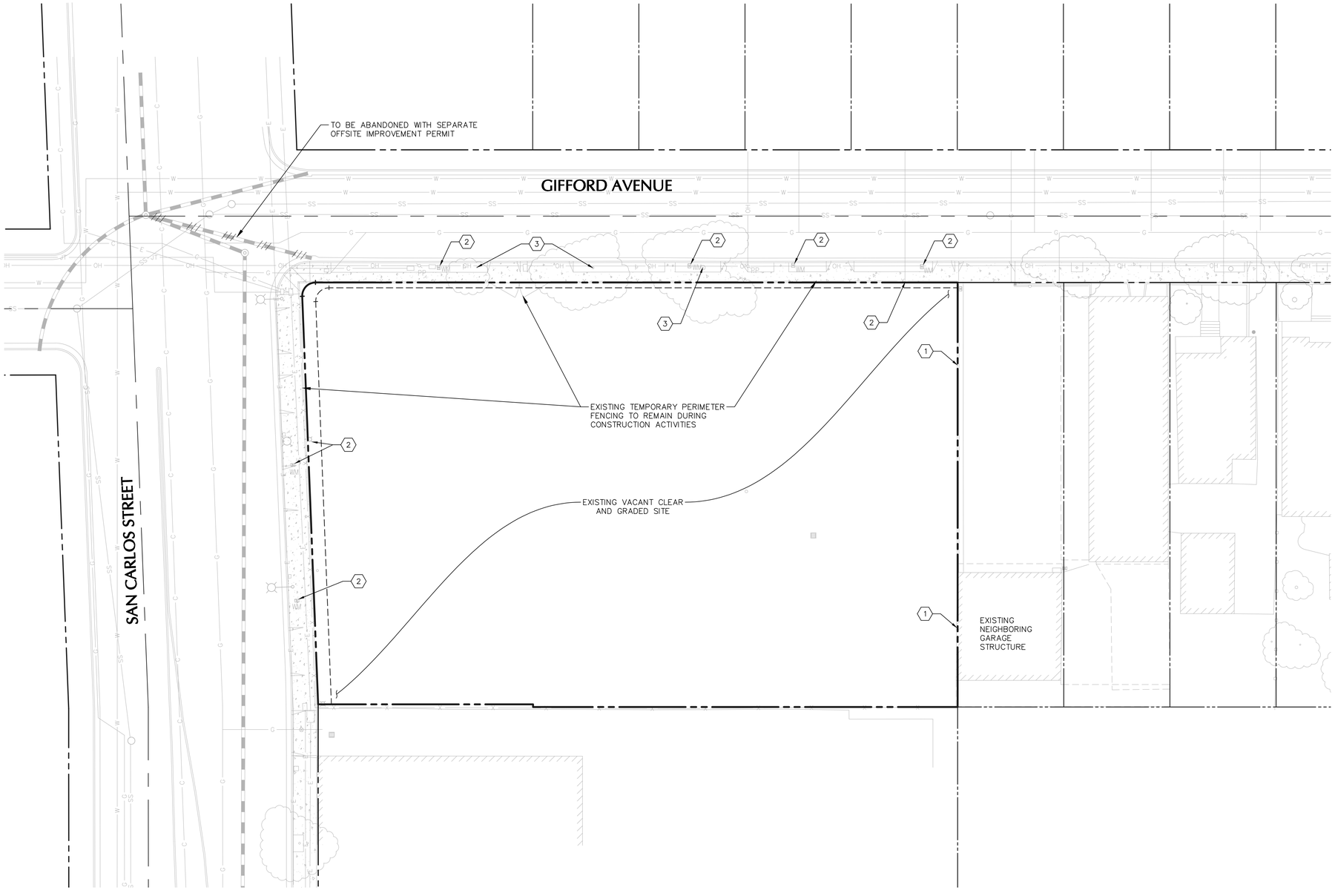
1" = 1'-0"



EXTERIOR STEP @ PODIUM SLAB SOFFIT 1

3" = 1'-0"

All drawings and written material appearing herein constitute original, and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of the architect.



LEGEND

- LIMIT OF WORK
- PROPERTY LINE
- RIGHT OF WAY
- EASEMENT LINE
- CENTER LINE
- (E) SANITARY SEWER PIPE & MANHOLE
- (E) STORM DRAIN PIPE & MANHOLE
- (E) WATER MAIN & VALVE
- (E) COMMUNICATIONS LINE
- (E) GAS LINE
- (E) OVERHEAD LINE
- (E) CURB INLET
- (E) FIELD INLET
- (E) FIRE HYDRANT
- (E) WATER METER
- (E) UTILITY BOXES & VAULTS
- (E) POWER POLE
- (E) ELECTROLIER
- (E) SIGN
- (E) TREE

ABBREVIATIONS

BLDG	BUILDING
CB	CATCH BASIN
CLF	CHAIN LINK FENCE
CO	CLEAN OUT
COMM	COMMUNICATION
CONC	CONCRETE
COR	CORNER
ELEC	ELECTRICAL
FH	FIRE HYDRANT
LT	LIGHT
MH	MANHOLE
PP	POWER POLE
SS	SANITARY SEWER
SD	STORM DRAIN
STLT	STREET LIGHT
UTIL	UTILITY
WM	WATER METER
WT	WATER
WV	WATER VALVE
WF	WOOD FENCE

NOTES:

1. PRESERVE AND PROTECT EXISTING NEIGHBORING STRUCTURES ALONG THE EDGE OF THE PROPERTY LINE (WALL & GARAGE) DURING ALL DEMOLITION AND CONSTRUCTION ACTIVITIES– TYP.
2. DISCONNECT EXISTING IDENTIFIED UTILITY FROM SITE AND REMOVE ANY NECESSARY VALVES, METERS, ETC AND CAP UTILITY PER UTILITY PROVIDER'S SPECIFICATIONS.
3. REMOVE EXISTING STREET TREE PER CITY OF SAN JOSE REQUIREMENTS. CONTRACTOR RESPONSIBLE TO OBTAIN SEPARATE TREE REMOVAL PERMIT.

0' 10' 20'

TRUE PROJ NORTH 90 DEG

1"=10'

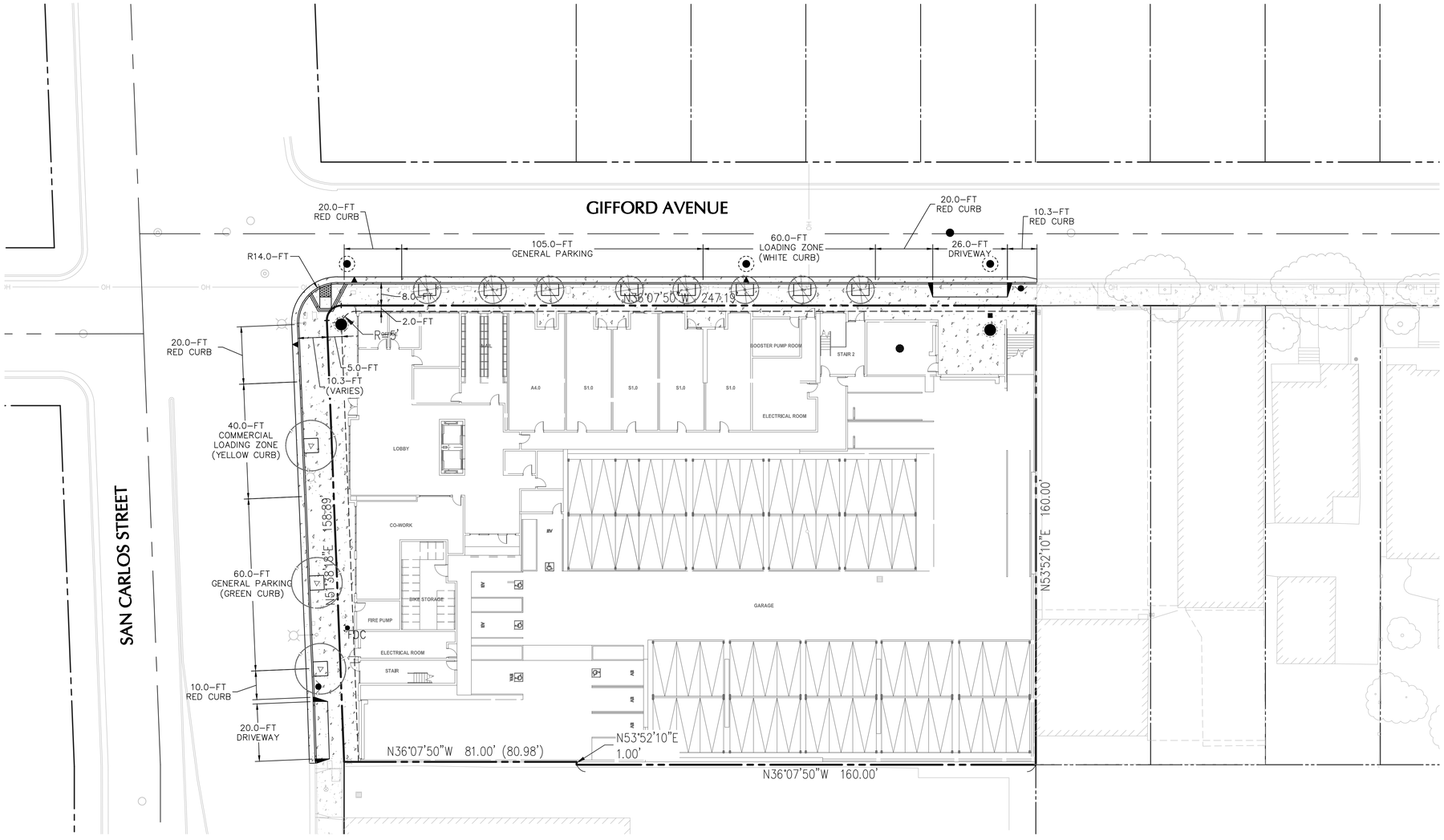
EXISTING CONDITIONS AND DEMOLITION PLAN **C1.00**

BDE ARCHITECTURE | URBAN CATALYST | LANGAN | Kimley»Horn

THE GIFFORD (H25-039)

325 GIFFORD AVE, SAN JOSE, CA 95126

JUNE 30, 2026



LEGEND

PROPOSED	EXISTING	
		LIMIT OF WORK
		PROPERTY LINE
		RIGHT OF WAY
		EASEMENT LINE
		CENTER LINE
SS	SS	SANITARY SEWER PIPE & MANHOLE
		STORM DRAIN PIPE & MANHOLE
W	W	WATER MAIN & VALVE
C	C C	COMMUNICATIONS LINE
G	G	GAS LINE
OH	OH	OVERHEAD LINE
		CURB INLET
		FIELD INLET
		FIRE HYDRANT
		WATER METER
		UTILITY BOXES & VAULTS
		POWER POLE
		ELECTROLIER
		SIGN
		TREE

0' 10' 20'

TRUE PROJ NORTH

1"=10'

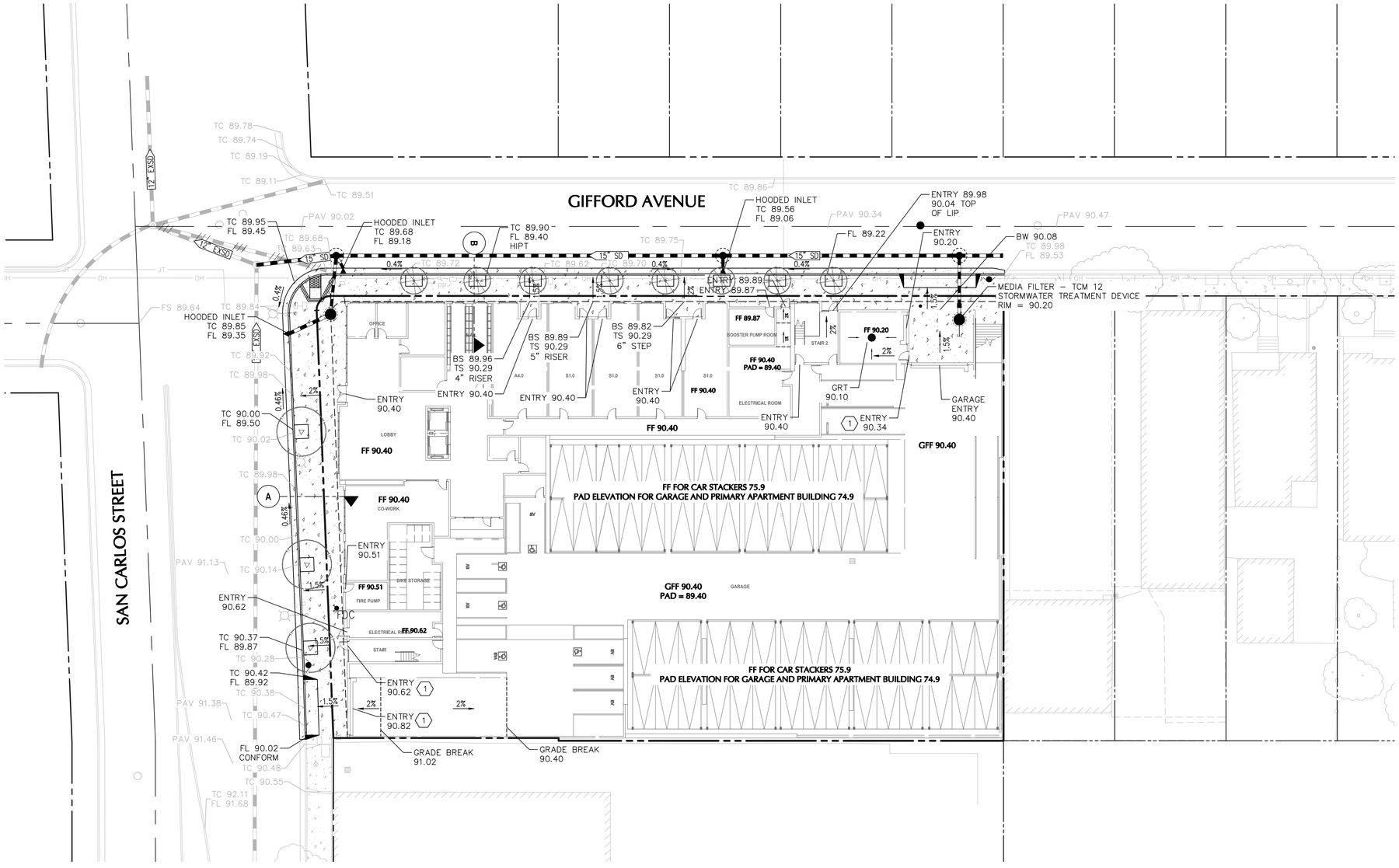
HORIZONTAL CONTROL & SIGNING & STRIPING PLAN **C2.00**

THE GIFFORD (H25-039)

325 GIFFORD AVE, SAN JOSE, CA 95126

JUNE 30, 2026

Date: 6/30/2026 Time: 13:29 User: aturner Style Table: Langan.stb Layout: C2.00 Document Code: 770732901-0101-CS102-0101



LEGEND

PROPOSED

SS
W
C
G
OH
CURB INLET
FIELD INLET
FIRE HYDRANT
WATER METER
UTILITY BOXES & VAULTS
POWER POLE
ELECTROLIER
SIGN
TREE
XX.XX ELEVATION
X.X% SLOPE
GRADE BREAK

EXISTING

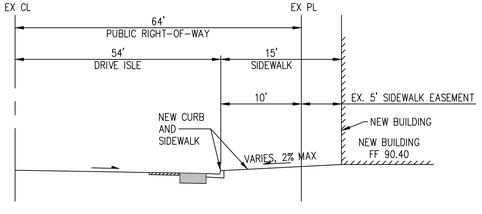
LIMIT OF WORK
PROPERTY LINE
RIGHT OF WAY
EASEMENT LINE
CENTER LINE
SANITARY SEWER PIPE & MANHOLE
STORM DRAIN PIPE & MANHOLE
WATER MAIN & VALVE
COMMUNICATIONS LINE
GAS LINE
OVERHEAD LINE
CURB INLET
FIELD INLET
FIRE HYDRANT
WATER METER
UTILITY BOXES & VAULTS
POWER POLE
ELECTROLIER
SIGN
TREE
XX.XX ELEVATION
SLOPE
GRADE BREAK

BENCHMARK

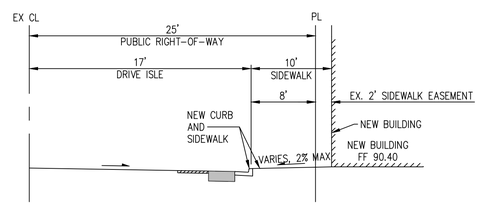
CITY OF SAN JOSE BENCHMARK NO. 496–B THE LETTER "Y" IN THE WORD "FOUNDRY" ON CATCH BASIN, AT ER ON SAN CARLOS STREET, NORTHWEST RETURN OF SAN CARLOS STREET AND SUNOL STREET. FB 773 PG 1.. NGVD 1929 DATUM, ELEVATION= 101.17.

NOTE:

1 PROPOSED ENTRY GRADE WILL REQUIRE INTERIOR RAMPING TO MAINTAIN UNIFORM FINISH FLOOR INSIDE BUIDLING



TYPICAL SECTION A-A SAN CARLOS STREET
NTS



TYPICAL SECTION B-B GIFFORD AVENUE
NTS

0' 10' 20'

TRUE PROJ NORTH (APPROX)

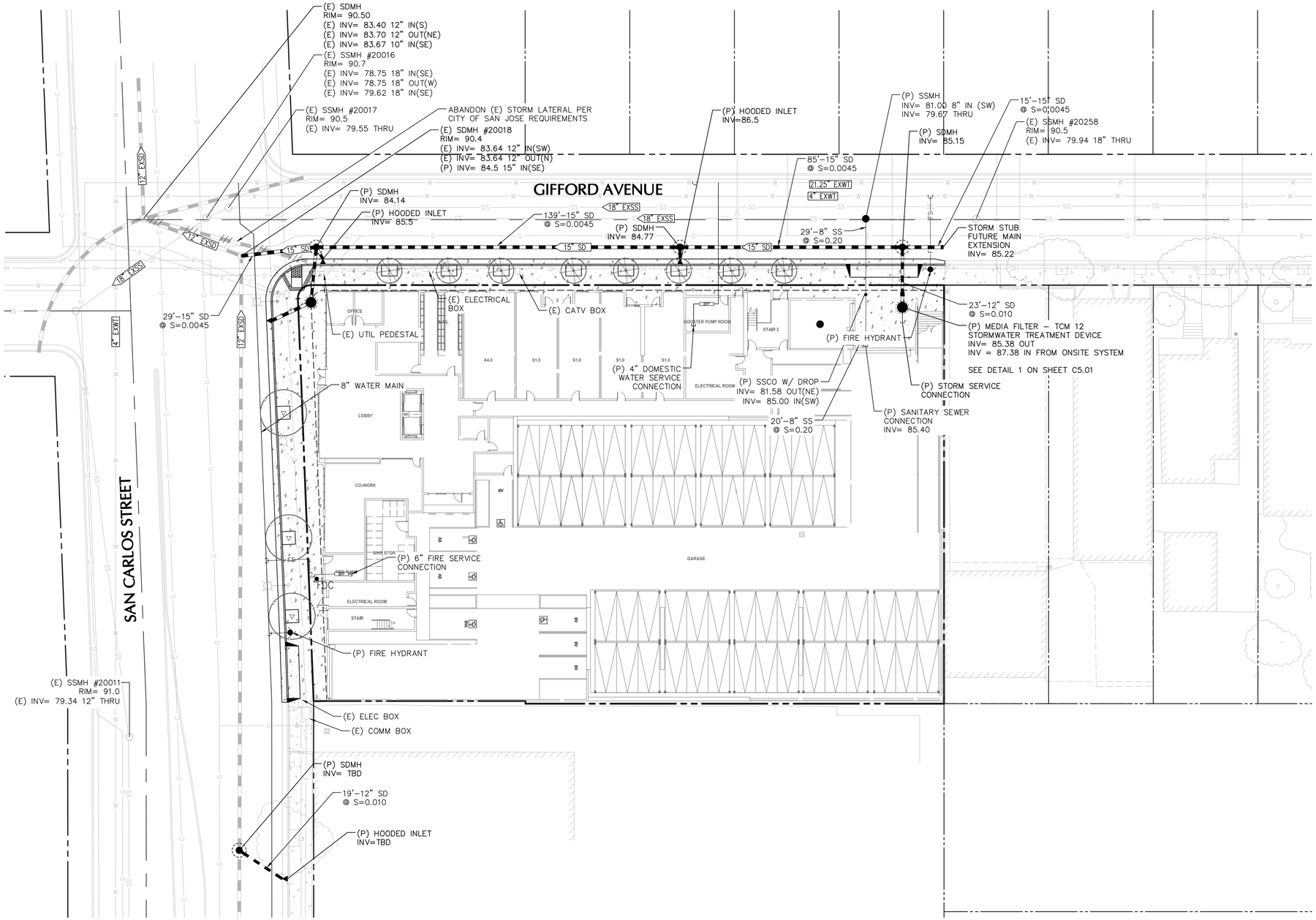
GRADING & DRAINAGE PLAN 1"=10' **C3.00**

BDE ARCHITECTURE | URBAN CATALYST | LANGAN | Kimley»Horn

THE GIFFORD (H25-039)

325 GIFFORD AVE, SAN JOSE, CA 95126

JUNE 30, 2026



LEGEND

PROPOSED

EXISTING

- LIMIT OF WORK
- PROPERTY LINE
- RIGHT OF WAY
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- CENTER LINE
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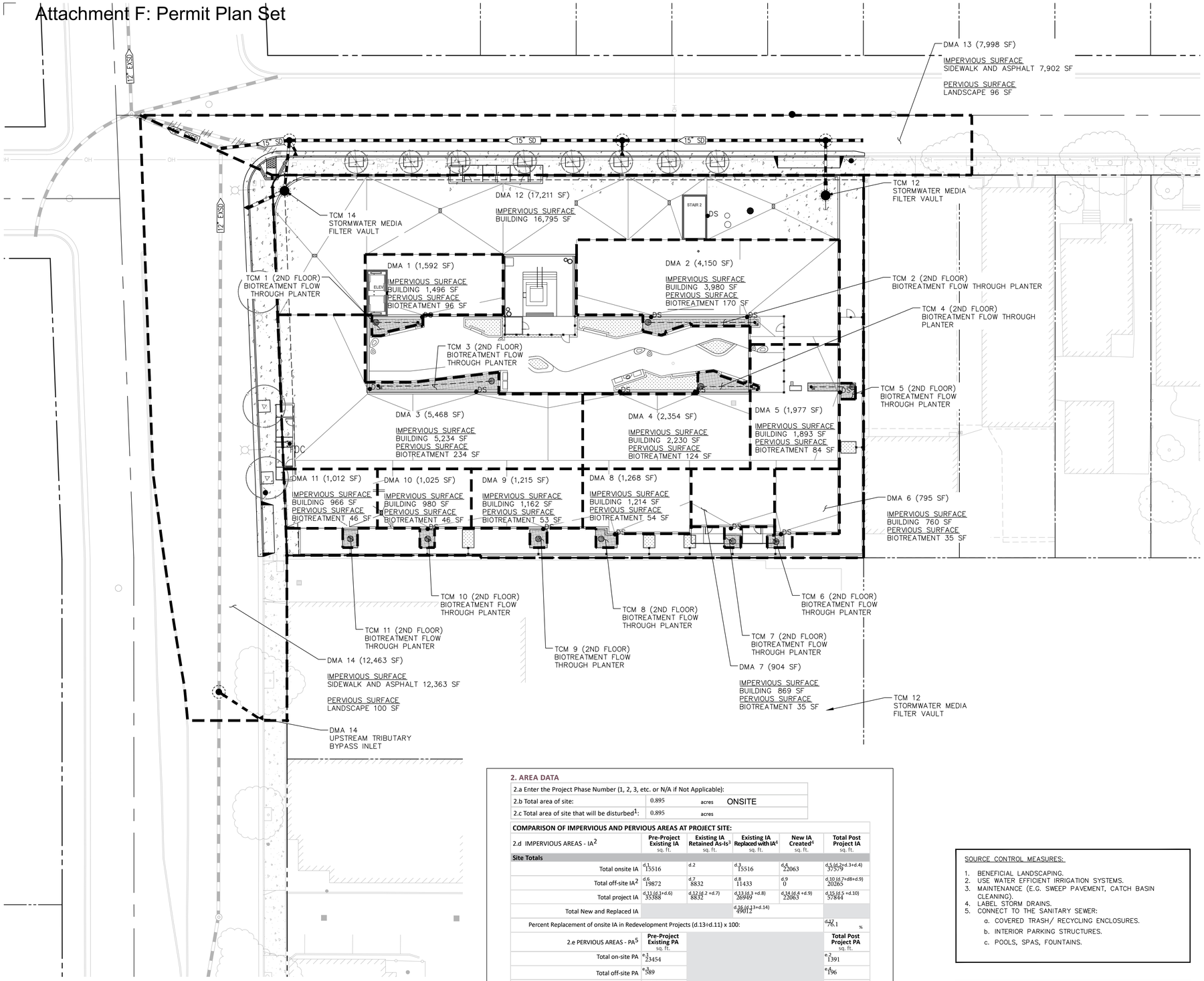
0' 10' 20'

1"=10'

UTILITY PLAN **C4.00**

THE GIFFORD (H25-039)

325 GIFFORD AVE, SAN JOSE, CA 95126 JUNE 30, 2026



LEGEND

PROPOSED / **EXISTING**

- LIMIT OF WORK
- PROPERTY LINE
- RIGHT OF WAY
- EASEMENT LINE
- CENTER LINE
- STORM DRAIN PIPE & MANHOLE
- CURB INLET
- FIELD INLET
- FIRE HYDRANT
- WATER METER
- UTILITY BOXES & VAULTS
- POWER POLE
- ELECTROLIER
- SIGN
- TREE
- BIOTREATMENT FLOWTHROUGH PLANTER
- LANDSCAPE
- STORMWATER OVERFLOW RISER
- CLEANOUT
- PERFORATED DRAIN PIPE
- ROOF DOWNSPOUT

NOTES

1. PROPERTY INFORMATION
   SITE AREA = 38,970 SF (0.895 AC)
2. EXISTING ONSITE IMPERVIOUS AREA = 15,516 SF (0.356 AC)
3. EXISTING ONSITE PERVIOUS AREA = 23,454 SF (0.538 AC)
4. PROPOSED ONSITE IMPERVIOUS AREA = 37,579 SF (0.863 AC)
5. PROPOSED ONSITE PERVIOUS AREA = 1,391 SF (0.032 AC)
6. THERE IS A 57% (22,063 SF) INCREASE OF IMPERVIOUS SURFACE AREA FOR THIS PROJECT.
7. RECEIVING SYSTEM FOR THE STORM WATER: CITY OF SAN JOSE STORM WATER COLLECTION SYSTEM AND ULTIMATELY TO THE GUADALUPE RIVER.
8. 0.395 ACRES (17,211 SF) 44% OF THE SITE'S STORM WATER RUNOFF WILL BE DIRECTED TO A SIZED "MEDIA FILTER MECHANICAL TREATMENT DEVICE" OR APPROVED EQUAL.
9. 0.500 ACRES (21,759 SF) 56% OF THE SITE'S STORM WATER RUNOFF WILL BE DIRECTED TO BIOTREATMENT FLOW THROUGH PLANTER BOXES.
10. THE OVERALL STORM CONVEYANCE SYSTEM WAS CALCULATED ASSUMING THE 10-YEAR STORM EVENT.
11. POLLUTANTS THAT MAY PRESENT AT THIS SITE AS A RESULT OF THIS DEVELOPMENT INCLUDE: SEDIMENTS, METALS, NUTRIENTS, BACTERIA, OIL, GREASE, AND ORGANIC COMPOUNDS. THE MAJORITY OF THE POLLUTANT SOURCES WILL BE LANDSCAPE AREAS AND ROOF SURFACES. RUNOFF FROM THESE AREAS WILL BE DIRECTED TO EITHER VEGETATED BIOTREATMENT PLANTER BOXES OR MEDIA FILTER MECHANICAL DEVICES.
12. A SWPPP PERMIT WILL NOT BE REQUIRED FOR THIS PROJECT AS THE AREA OF DISTURBANCE < 1 ACRE.
13. SPECIAL PROJECT EXEMPTIONS: WITH A 100% EXEMPTION CREDIT BASED ON THE SPECIAL PROJECT CRITERIA, THE PROJECT WOULD NOT BE REQUIRED TO TREAT THE PROJECT WITH LID METHODS. THE CURRENT DESIGN PROPOSES MORE THAN 16,000 LID TREATMENT WHICH FAR EXCEEDS THE REQUIREMENTS. THESE PLANS HAVE INCORPORATED ADDITIONAL OPPORTUNITIES ABOVE THE PERMIT REQUIREMENTS.
14. THE PARTY RESPONSIBLE FOR THE OPERATIONS AND MAINTENANCE OF THE STORMWATER CONTROL PLAN IS

    MATT BERNARDIS
    URBAN CATALYST
    99 S. ALMADEN BOULEVARD
    SAN JOSE, CA 95113
    (916) 606-3225
15. MEDIA FILTER (MFS) UNITS WITHIN THE BUILDING SHALL CONFORM TO THE BUILDING DIVISION DIRECTIVE P-005 ENTITLED "STORMWATER FILTERS INSTALLED WITHIN BUILDINGS."
16. DMA 13 IS NOT BEING TREATED, BUT THE EQUIVALENT AND / OR A GREATER AREA THAN THE REQUIRED OFFSITE TRIBUTARY AREA WILL BE TREATED BY TCM 14. THE TOTAL AMOUNT OF COMBINED REMOVED & REPLACED OFFSITE TRIBUTARY AREA IS 11,629 SF AND TCM 14 PROVIDES TREATMENT FOR A MIN. OF 12,463 SF (107% OF THE REQUIRED AREA).

2. AREA DATA

2.a Enter the Project Phase Number (1, 2, 3, etc. or N/A if Not Applicable):			
2.b Total area of site:	0.895	acres	ONSITE
2.c Total area of site that will be disturbed[1]:	0.895	acres	

COMPARISON OF IMPERVIOUS AND PERVIOUS AREAS AT PROJECT SITE:

2.d IMPERVIOUS AREAS - IA[2]	Pre-Project Existing IA sq. ft.	Existing IA Retained As-Is[3] sq. ft.	Existing IA Replaced with IA[4] sq. ft.	New IA Created[4] sq. ft.	Total Post Project IA sq. ft.
Site Totals					
Total onsite IA	d.1 15516	d.2	d.3 15516	d.4 22063	d.5 (d.2+d.3+d.4) 37579
Total off-site IA[2]	d.6 19872	d.7 8832	d.8 11433	d.9 0	d.10 (d.7+d8+d.9) 20265
Total project IA	d.11 (d.1+d.6) 35388	d.12 (d.2 +d.7) 8832	d.13 (d.3 +d.8) 26949	d.14 (d.4 +d.9) 22063	d.15 (d.5 +d.10) 57844
Total New and Replaced IA			d.16 (d.13+d.14) 49012		
Percent Replacement of onsite IA in Redevelopment Projects (d.13÷d.11) x 100:					d.17 76.1 %
2.e PERVIOUS AREAS - PA[5]	Pre-Project Existing PA sq. ft.				Total Post Project PA sq. ft.
Total on-site PA	e.1 23454				e.2 1391
Total off-site PA	e.3 589				e.4 196
Total PA[5]	e.5 (e.1+e.3) 24043				e.6 (e.2+e.4) 1587
2.f Total Area (IA + PA)	f.1 (d.11 + e.5) 59431				f.2 (d.15 + e.6) 59431

continued>

SOURCE CONTROL MEASURES:

1. BENEFICIAL LANDSCAPING.
2. USE WATER EFFICIENT IRRIGATION SYSTEMS.
3. MAINTENANCE (E.G. SWEEP PAVEMENT, CATCH BASIN CLEANING).
4. LABEL STORM DRAINS.
5. CONNECT TO THE SANITARY SEWER:
   a. COVERED TRASH/ RECYCLING ENCLOSURES.
   b. INTERIOR PARKING STRUCTURES.
   c. POOLS, SPAS, FOUNTAINS.

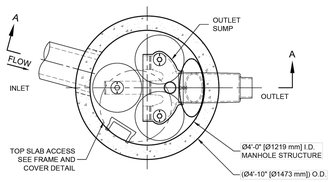
SITE DESIGN MEASURES:

1. PARKING UNDER THE PROPOSED BUILDING.

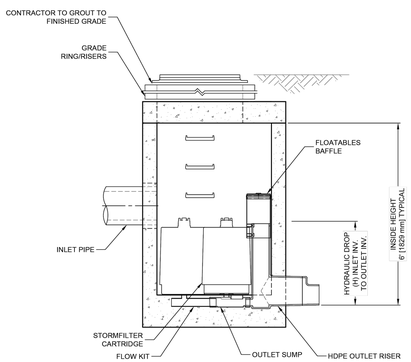
0' 10' 20'

1"=10'

STORMWATER CONTROL PLAN **C5.00**



PLAN VIEW
STANDARD OUTLET RISER
FLOWKIT: 40A



SECTION A-A

The Stormwater Management StormFilter®

THIS PRODUCT MAY BE PROTECTED BY ONE OR MORE OF THE FOLLOWING U.S. PATENTS: 4,346,000; 4,693,815; 4,759,839; 5,027,839; 5,498,340; 5,849,048; RELATED FOREIGN PATENTS, OR OTHER PATENTS PENDING.

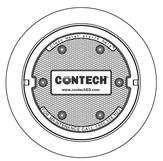
STORMFILTER DESIGN NOTES

STORMFILTER TREATMENT CAPACITY IS A FUNCTION OF THE CARTRIDGE SELECTION AND THE NUMBER OF CARTRIDGES. THE STANDARD MANHOLE STYLE IS SHOWN WITH THE MAXIMUM NUMBER OF CARTRIDGES (3). VOLUME SYSTEM IS ALSO AVAILABLE WITH MAXIMUM 3 CARTRIDGES. Ø4 [1219 mm] MANHOLE STORMFILTER PEAK HYDRAULIC CAPACITY IS 1.0 CFS [28.3 L/s] . IF THE SITE CONDITIONS EXCEED 1.0 CFS [28.3 L/s] AN UPSTREAM BYPASS STRUCTURE IS REQUIRED.

CARTRIDGE SELECTION

CARTRIDGE HEIGHT	27" [686 mm]			18" [458 mm]			LOW DROP 2.3' [700 mm]		
RECOMMENDED HYDRAULIC DROP (H)	2.65' [800 mm]						1.8' [550 mm]		
SPECIFIC FLOW RATE (gpm/sf) [L/s/m²]	2 [1.30]	1.67* [1.08]	1 [0.65]	2 [1.30]	1.67* [1.08]	1 [0.65]	2 [1.30]	1.67* [1.08]	1 [0.65]
CARTRIDGE FLOW RATE (gpm) [L/s]	23.4 [1.42]	18.79 [1.19]	11.25 [0.71]	15 [0.95]	12.53 [0.79]	7.5 [0.44]	14 [0.85]	8.35 [0.54]	5 [0.32]

* 1.67 gpm/sf [1.08 L/s/m²] SPECIFIC FLOW RATE IS APPROVED WITH PHOSPHOSORB® (PSORB) MEDIA ONLY



FRAME AND COVER
(DIAMETER VARIES)
N.T.S.

SITE SPECIFIC DATA REQUIREMENTS

STRUCTURE ID	TCM 12
WATER QUALITY FLOW RATE (cfs) [L/s]	0.085319 CFS
PEAK FLOW RATE (cfs) [L/s]	0.64367 CFS
RETURN PERIOD OF PEAK FLOW (yrs)	10 YEAR
CARTRIDGE HEIGHT (SEE TABLE ABOVE)	18"
NUMBER OF CARTRIDGES REQUIRED	3 EA.
CARTRIDGE FLOW RATE	13.53 GPM
MEDIA TYPE (PERLITE, ZPG, PSORB)	PSORB

PIPE DATA:	I.E.	MATERIAL	DIAMETER
INLET PIPE #1	87.38	PVC	12"
INLET PIPE #2			
OUTLET PIPE	85.38	RCP	12"
RIM ELEVATION			*

ANTI-FLOTATION BALLAST	WIDTH	HEIGHT
	*	*

NOTES/SPECIAL REQUIREMENTS:

* PER ENGINEER OF RECORD

SITE SPECIFIC DATA REQUIREMENTS

STRUCTURE ID	TCM 14
WATER QUALITY FLOW RATE (cfs) [L/s]	0.085319 CFS
PEAK FLOW RATE (cfs) [L/s]	0.07125 CFS
RETURN PERIOD OF PEAK FLOW (yrs)	10 YEAR
CARTRIDGE HEIGHT (SEE TABLE ABOVE)	18"
NUMBER OF CARTRIDGES REQUIRED	3 EA.
CARTRIDGE FLOW RATE	13.53 GPM
MEDIA TYPE (PERLITE, ZPG, PSORB)	PSORB

PIPE DATA:	I.E.	MATERIAL	DIAMETER
INLET PIPE #1	XX.XX	PVC	12"
INLET PIPE #2			
OUTLET PIPE	XX.XX	RCP	12"
RIM ELEVATION			*

ANTI-FLOTATION BALLAST	WIDTH	HEIGHT
	*	*

NOTES/SPECIAL REQUIREMENTS:

* PER ENGINEER OF RECORD

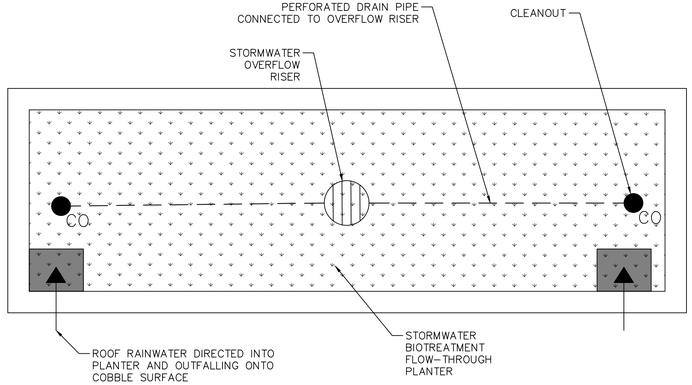
GENERAL NOTES
1. CONTECH TO PROVIDE ALL MATERIALS UNLESS NOTED OTHERWISE.
2. DIMENSIONS MARKED WITH ( ) ARE REFERENCE DIMENSIONS. ACTUAL DIMENSIONS MAY VARY.
3. FOR SITE SPECIFIC DRAWINGS WITH DETAILED VAULT DIMENSIONS AND WEIGHTS, PLEASE CONTACT YOUR CONTECH ENGINEERED SOLUTIONS LLC REPRESENTATIVE , www.ContechES.com
4. STORMFILTER WATER QUALITY STRUCTURE SHALL BE IN ACCORDANCE WITH ALL DESIGN DATA AND INFORMATION CONTAINED IN THIS DRAWING.
5. STRUCTURE SHALL MEET AASHTO HS-20 LOAD RATING, ASSUMING EARTH COVER OF 0' - 5' [1524 mm] AND GROUNDWATER ELEVATION AT, OR BELOW, THE OUTLET PIPE INVERT ELEVATION. ENGINEER OF RECORD TO CONFIRM ACTUAL GROUNDWATER ELEVATION. CASTINGS SHALL MEET AASHTO M306 AND BE CAST WITH THE CONTECH LOGO.
6. FILTER CARTRIDGES SHALL BE MEDIA-FILLED, PASSIVE, SIPHON ACTUATED, RADIAL FLOW, AND SELF CLEANING. RADIAL MEDIA DEPTH SHALL BE 7-INCHES [178 mm]. FILTER MEDIA CONTACT TIME SHALL BE AT LEAST 38 SECONDS.
7. SPECIFIC FLOW RATE IS EQUAL TO THE FILTER TREATMENT CAPACITY (gpm) [L/s] DIVIDED BY THE FILTER CONTACT SURFACE AREA (sq ft)[m²].
8. STORMFILTER STRUCTURE SHALL BE PRECAST CONCRETE CONFORMING TO ASTM C-478 AND AASHTO LOAD FACTOR DESIGN METHOD.

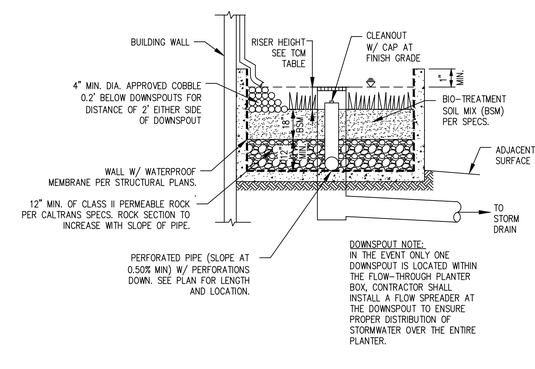
INSTALLATION NOTES
A. ANY SUB-BASE, BACKFILL DEPTH, AND/OR ANTI-FLOTATION PROVISIONS ARE SITE-SPECIFIC DESIGN CONSIDERATIONS AND SHALL BE SPECIFIED BY ENGINEER OF RECORD.
B. CONTRACTOR TO PROVIDE EQUIPMENT WITH SUFFICIENT LIFTING AND REACH CAPACITY TO LIFT AND SET THE STORMFILTER STRUCTURE.
C. CONTRACTOR TO INSTALL JOINT SEALANT BETWEEN ALL STRUCTURE SECTIONS AND ASSEMBLE STRUCTURE.
D. CONTRACTOR TO PROVIDE, INSTALL, AND GROUT INLET PIPE(S).
E. CONTRACTOR TO PROVIDE AND INSTALL CONNECTOR TO THE OUTLET RISER STUB. STORMFILTER EQUIPPED WITH A DUAL DIAMETER HDPE OUTLET STUB AND SAND-COLLAR. IF OUTLET PIPE IS LARGER THAN 8 INCHES [200 mm], CONTRACTOR TO REMOVE THE 8 INCH [200 mm] OUTLET STUB AT MOLDED-IN CUT LINE. COUPLING BY FERNCO OR EQUAL AND PROVIDED BY CONTRACTOR.
F. CONTRACTOR TO TAKE APPROPRIATE MEASURES TO PROTECT CARTRIDGES FROM CONSTRUCTION-RELATED EROSION RUNOFF.

CONTECH® ENGINEERED SOLUTIONS LLC
www.contechES.com
9025 Centre Pointe Dr., Suite 400, West Chester, OH 45069
800-338-1122 513-645-7000 513-645-7993 FAX

SFMH48
STORMFILTER
STANDARD DETAIL

1 **CONTECH SFMH48 STROMFILTER STANDARD DETAIL**
NOT TO SCALE





SIZING METHODS:
FLOW-COMBO
4%

2 **FLOW-THROUGH PLANTER**
NOT TO SCALE

I:\STORMWATER\DRAWINGS\STORMFILTER\HI STANDARD DRAWINGS\MANHOLE\SFMH48 DTL.DWG 4/5/2019 10:54 AM

PROJECT SITE INFORMATION:

1. **SOILS TYPE:** PRIMARILY CLAY
2. **GROUND WATER DEPTH:** APPROX. 20' BELOW GROUND SURFACE
3. **NAME OF RECEIVING BODY:** GUADALUPE RIVER
4. **FLOOD ZONE:** D
5. **FLOOD ELEVATION (IF APPLICABLE):** N/A

OPERATION AND MAINTENANCE INFORMATION:

I. PROPERTY INFORMATION:

I.A. PROPERTY ADDRESS:
383 GIFFORD AVENUE
SAN JOSE, CA 95110

I.B. PROPERTY OWNER:
URBAN CATALYST
99 S. ALMADEN BLVD., SUITE 840
SAN JOSE, CA 95113

II. RESPONSIBLE PARTY FOR MAINTENANCE:

II.A. CONTACT:
MATT BERNARDIS

II.B. PHONE NUMBER OF CONTACT:
(916) 606-3225

II.C. EMAIL:
mattbernardis@urbancatalyst.com

II.D. ADDRESS:
URBAN CATALYST
99 S. ALMADEN BLVD., SUITE 840
SAN JOSE, CA 95113

BIORETENTION & FLOW-THROUGH PLANTER NOTES:

1. SEE GRADING PLAN FOR BASIN FOOTPRINT AND DESIGN ELEVATIONS.
2. PLACE 3 INCHES OF COMPOSTED, NON-FLOATABLE MULCH IN AREAS BETWEEN STORMWATER PLANTINGS AND SIDE SLOPE.
3. SEE LANDSCAPE PLAN FOR MULCH, PLANT MATERIALS AND IRRIGATION REQUIREMENTS
4. CURB CUTS SHALL BE A MINIMUM 18" WIDE AND SPACED AT MAXIMUM 10' O.C. INTERVALS AND SLOPED TO DIRECT STORMWATER TO DRAIN INTO THE BASIN. CURB CUTS SHALL ALSO NOT BE PLACED INLINE WITH OVERFLOW CATCH BASIN. SEE GRADING PLAN FOR MORE DETAIL ON LOCATIONS OF CURB CUTS.
5. A MINIMUM 0.2' DROP BETWEEN STORM WATER ENTRY POINT (I.E. CURB OPENING, FLUSH CURB, ETC.) AND ADJACENT LANDSCAPE FINISHED GRADE.
6. DO NOT COMPACT NATIVE SOIL / SUBGRADE AT BOTTOM OF BASIN. LOOSEN SOIL TO 12" DEPTH.

BIOTREATMENT SOIL REQUIREMENTS

- BIORETENTION SOIL MIX SHALL MEET THE REQUIREMENTS AS OUTLINED IN APPENDIX C OF THE C.3 STORM WATER HANDBOOK AND SHALL BE A MIXTURE OF FINE SAND AND COMPOST MEASURED ON A VOLUME BASIS OF 60-70% SAND AND 30-40% COMPOST. CONTRACTOR TO REFER TO APPENDIX C FOR SAND AND COMPOST MATERIAL SPECIFICATIONS. CONTRACTOR MAY OBTAIN A COPY OF THE C3 HANDBOOK AT : HTTPS: //SCVURPPP.ORG/LIBRARY/
- PRIOR TO ORDERING THE BIOTREATMENT SOIL MIX OR DELIVERY TO THE PROJECT SITE, CONTRACTOR SHALL PROVIDE A BIOTREATMENT SOIL MIX SPECIFICATION CHECKLIST, COMPLETED BY THE SOIL MIX SUPPLIER AND CERTIFIED TESTING LAB.

STANDARD STORMWATER CONTROL NOTES

- STANDING WATER SHALL NOT REMAIN IN THE TREATMENT MEASURES FOR MORE THAN FIVE DAYS, TO PREVENT MOSQUITO GENERATION. SHOULD ANY MOSQUITO ISSUES ARISE, CONTACT THE SANTA CLARA VALLEY VECTOR CONTROL DISTRICT (DISTRICT). MOSQUITO LARVICIDES SHALL BE APPLIED ONLY WHEN ABSOLUTELY NECESSARY, AS INDICATED BY THE DISTRICT, AND THEN ONLY BY A LICENSED PROFESSIONAL OR CONTRACTOR. CONTACT INFORMATION FOR THE DISTRICT IS PROVIDED BELOW.

  WEBSITE: HTTPS://VECTOR.SCCGOV.ORG/HOME

  PHONE: (408) 918-4770

- DO NOT USE PESTICIDES OR OTHER CHEMICAL APPLICATIONS TO TREAT DISEASED PLANTS, CONTROL WEEDS OR REMOVED UNWANTED GROWTH. EMPLOY NON-CHEMICAL CONTROLS (BIOLOGICAL, PHYSICAL AND CULTURAL CONTROLS) TO TREAT A PEST PROBLEM. PRUNE PLANTS PROPERLY AND AT THE APPROPRIATE TIME OF YEAR. PROVIDE ADEQUATE IRRIGATION FOR LANDSCAPE PLANTS. DO NOT OVER WATER.

TABLE 1
ROUTINE MAINTENANCE ACTIVITIES FOR FLOW-THROUGH PLANTERS

NO.	MAINTENANCE TASK	FREQUENCY OF TASK
1	INSPECT THE PLANTER SURFACE AREA, INLETS AND OUTLETS FOR OBSTRUCTIONS AND TRASH; CLEAR ANY OBSTRUCTIONS AND REMOVE TRASH.	QUARTERLY
2	INSPECT PLANTER FOR STANDING WATER. IF STANDING WATER DOES NOT DRAIN WITHIN 2-3 DAYS, THE SURFACE BIOTREATMENT SOIL SHOULD BE TILLED OR REPLACED WITH THE APPROVED SOIL MIX AND REPLANTED. USE THE CLEANOUT RISER TO CLEAR ANY UNDERDRAINS OF OBSTRUCTIONS OR CLOGGING MATERIAL.	QUARTERLY
3	CHECK FOR ERODED OR SETTLED BIOTREATMENT SOIL MEDIA. LEVEL SOIL WITH RAKE AND REMOVE/REPLANT VEGETATION AS NECESSARY.	QUARTERLY
4	MAINTAIN THE VEGETATION AND IRRIGATION SYSTEM. PRUNE AND WEED TO KEEP FLOW-THROUGH PLANTER NEAT AND ORDERLY IN APPEARANCE.	QUARTERLY
5	EVALUATE HEALTH AND DENSITY OF VEGETATION. REMOVE AND REPLACE ALL DEAD AND DISEASED VEGETATION. REMOVE EXCESSIVE GROWTH OF PLANTS THAT ARE TOO CLOSE TOGETHER.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
6	USE COMPOST AND OTHER NATURAL SOIL AMENDMENTS AND FERTILIZERS INSTEAD OF SYNTHETIC FERTILIZERS, ESPECIALLY IF THE SYSTEM USES AN UNDERDRAIN.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
7	INSPECT THE OVERFLOW PIPE TO MAKE SURE THAT IT CAN SAFELY CONVEY EXCESS FLOWS TO A STORM DRAIN. REPAIR OR REPLACE ANY DAMAGED OR DISCONNECTED PIPING. USE THE CLEANOUT RISER TO CLEAR UNDERDRAINS OF OBSTRUCTIONS OR CLOGGING MATERIAL.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
8	INSPECT THE ENERGY DISSIPATOR AT THE INLET TO ENSURE IT IS FUNCTIONING ADEQUATELY, AND THAT THERE IS NO SCOUR OF THE SURFACE MULCH. REMOVE ANY ACCUMULATION OF SEDIMENT.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
9	INSPECT AND, IF NEEDED, REPLACE WOOD MULCH. IT IS RECOMMENDED THAT 2" TO 3" OF COMPOSTED ARBOR MULCH BE APPLIED ONCE A YEAR.	ANNUALLY, BEFORE THE RAINY SEASON BEGINS
10	INSPECT SYSTEM FOR EROSION OF BIOTREATMENT SOIL MEDIA, LOSS OF MULCH, STANDING WATER, CLOGGED OVERFLOWS, WEEDS, TRASH AND DEAD PLANTS. IF USING ROCK MULCH, CHECK FOR 3" OF COVERAGE.	ANNUALLY AT THE END OF THE RAINY SEASON AND/OR AFTER LARGE STORM EVENTS,
11	INSPECT SYSTEM FOR STRUCTURAL INTEGRITY OF WALLS, FLOW SPREADERS, ENERGY DISSIPATORS, CURB CUTS, OUTLETS AND FLOW SPLITTERS.	ANNUALLY AT THE END OF THE RAINY SEASON AND/OR AFTER LARGE STORM EVENTS,

TABLE 1
ROUTINE MAINTENANCE ACTIVITIES FOR MEDIA FILTERS

NO.	MAINTENANCE TASK	FREQUENCY OF TASK
1	INSPECT FOR STANDING WATER, SEDIMENT, TRASH AND DEBRIS.	MONTHLY DURING RAINY SEASON
2	REMOVE ACCUMULATED TRASH AND DEBRIS IN THE UNIT DURING ROUTINE INSPECTIONS.	MONTHLY DURING RAINY SEASON, OR AS NEEDED AFTER STORM EVENTS
3	INSPECT TO ENSURE THAT THE FACILITY IS DRAINING COMPLETELY WITHIN FIVE DAYS AND PER MANUFACTURER'S SPECIFICATIONS.	ONCE DURING THE WET SEASON AFTER MAJOR STORM EVENT.
4	REPLACE THE MEDIA PER MANUFACTURER'S INSTRUCTIONS OR AS INDICATED BY THE CONDITION OF THE UNIT.	PER MANUFACTURER'S SPECIFICATIONS.
5	INSPECT MEDIA FILTERS USING THE ATTACHED INSPECTION CHECKLIST.	QUARTERLY OR AS NEEDED

MEDIA FILTER SIZING - TCM 12

DMA # 12
A= 17211 s.f. A= 0.39511 acre

C Value	Area* (s.f.)	Weighted C Value
0.9	16,795	0.881
0.8	0	
0.7	0	
0.1	416	

Rainfall Intensity (i)
i = 0.2

* Input Values by hand or use Table at the bottom of the spreadsheet.

Q= C x i x A
Q= 0.0695918 cfs

Manufacturer: Contech
Cartridge Height: 18 in.
Cartidge Media (if applicable): Phosphosorb
G.U.L.D. Cartridge Treatment Flowrate (CTF): 12.53 gpm/cartridge

Cartridges= [Q x (449 gpm/cfs)] / CTF
Cartridges = 2.493753 (round up)
Cartridges Required= 3
Treatment Flow Rate Capacity= 0.083719 **cfs**

MEDIA FILTER SIZING- TCM 14

DMA # 14
A= 17311 s.f. A= 0.39741 acre

C Value	Area* (s.f.)	Weighted C Value
0.9	17,236	0.897
0.8	0	
0.7	0	
0.1	75	

Rainfall Intensity (i)
i = 0.2

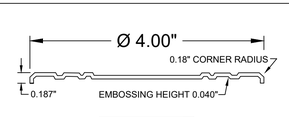
* Input Values by hand or use Table at the bottom of the spreadsheet.

Q= C x i x A
Q= 0.0712576 cfs

Manufacturer: Contech
Cartridge Height: 18 in.
Cartidge Media (if applicable): Phosphosorb
G.U.L.D. Cartridge Treatment Flowrate (CTF): 12.53 gpm/cartridge

Cartridges= [Q x (449 gpm/cfs)] / CTF
Cartridges = 2.553444 (round up)
Cartridges Required= 3
Treatment Flow Rate Capacity= 0.083719 **cfs**





SECTION VIEW

NOTES

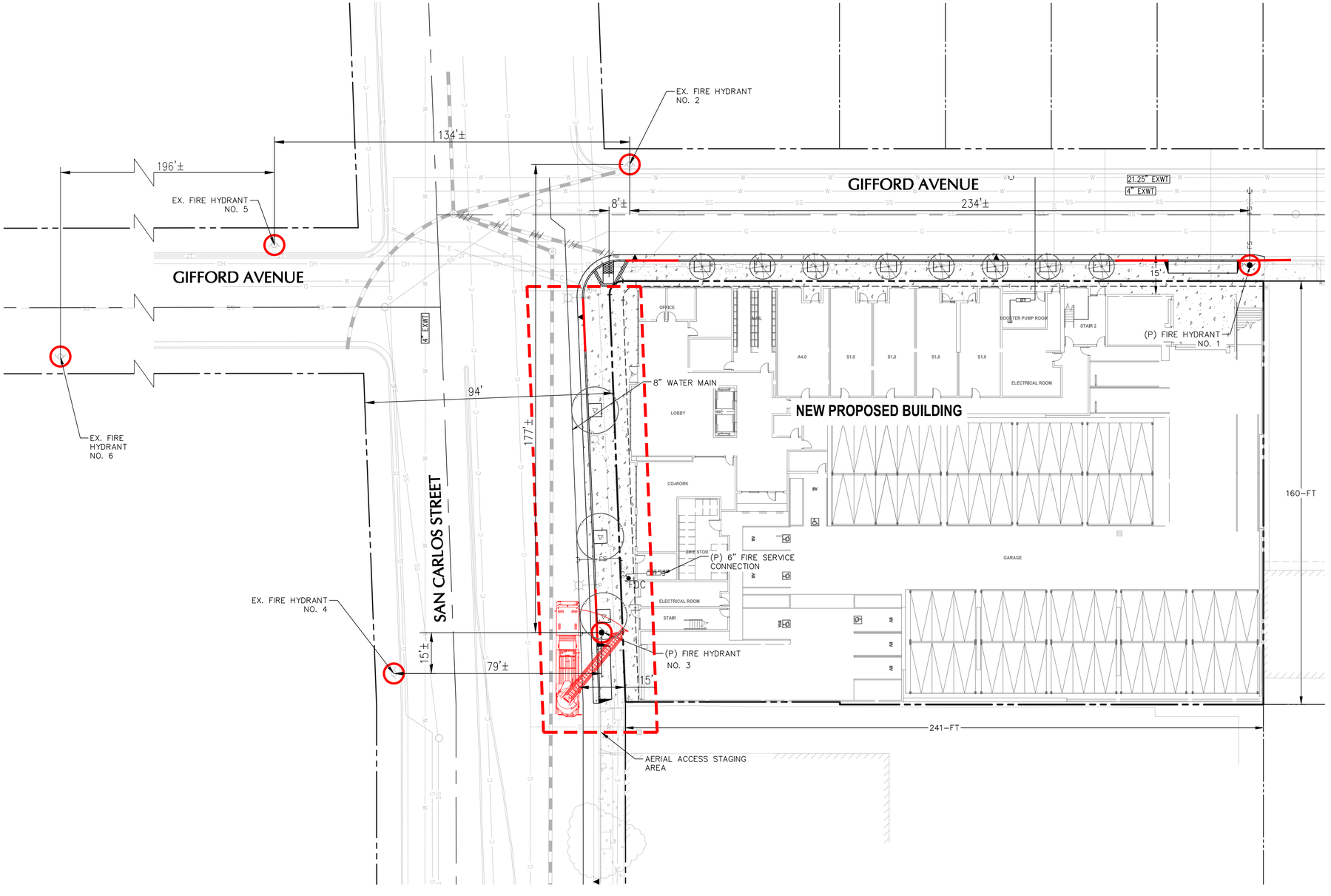
CONTRACTOR SHALL INSTALL STORMWATER TREATMENT MEASURE SIGNAGE IN THE FORM OF A CITY APPROVED MEDALLION # STDM-19323-SSPS, OR EQUIVALENT. THE MEDALLION MUST BE COMMERCIAL GRADE STAINLESS-STEEL, ALUMINUM, BRASS OR BRONZE AND EITHER STAMPED FROM SHEET METAL OR CAST.

THE MEDALLION COLOR MUST BE NONREFLECTIVE BLUE OR GREEN AND BE AFFIXED TO A CLEAN, PREPARED SURFACE WITH ADHESIVES, FASTENERS OR HEAT AS RECOMMENDED BY THE MANUFACTURER. THE MEDALLION MUST INCLUDE THE WORDS "STORMWATER TREATMENT MEASURE - DO NOT ALTER OR REMOVE" AND BE WEATHERPROOF.

MEDALLION SHALL BE INSTALLED AT EACH CURB OPENING LOCATION OR 10' APART IF MULTIPLE CURB OPENINGS". IF THERE ARE NO CURB OPENING(S) THEN PLACE 10' APART.

FOR INFORMATION ONLY: MEDALLION PART # STDM-19323-SSPS CAN BE PURCHASED THROUGH ALMETEK INDUSTRIES, INC.: WWW.ALMETEK.COM OR CALL (800) 248-2080. HOWEVER, THE CONTRACTOR MAY PURCHASE FROM ANY SOURCE SUBJECT TO REVIEW AND APPROVAL. CALL THE CITY OF SAN JOSE ENVIRONMENTAL SERVICES DEPARTMENT AT (408) 945-3000 FOR MORE INFO.

STORMWATER TREATMENT MEASURE MEDALLION N.T.S.



FIRE PREVENTION NOTES

1. PROPOSED TYPE OF CONSTRUCTION:

GROUND FLOOR (WITH PARKING)	36,222 SF – TYPE IA
SECOND FLOOR	27,637 SF – TYPE IA
THIRD FLOOR	25,636 SF – TYPE IA
FOURTH FLOOR	28,839 SF – TYPE IIIA
FIFTH FLOOR	28,839 SF – TYPE IIIA
SIXTH FLOOR	28,839 SF – TYPE IIIA
SEVENTH FLOOR	28,839 SF – TYPE IIIA
EIGHTH FLOOR	27,152 SF – TYPE IIIA
GROSS FLOOR AREA	232,003 SF

HAZARD CLASSIFICATIONS AND % OF BUILDING:
GROUND FLOOR TYPE IA WITH GARAGE PARKING (ORDINARY HAZARD) – 36,222 SF / 232,003 SF = 15.61%
FLOOR 2–3 TYPE IA (LIGHT HAZARD) – 53,273 SF / 232,003 SF = 22.96%
FLOOR 4–8 TYPE IIIA (LIGHT HAZARD) – 142,508 SF / 232,003 SF = 61..43%

2. FIRE FLOW REQUIREMENTS:

RESIDENTIAL BUILDING

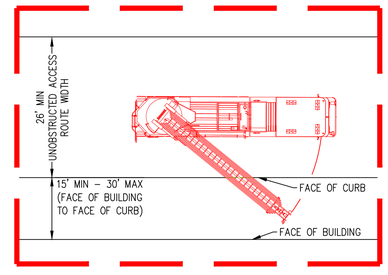
TYPE IA (ORDINARY HAZARD) AT 232,003 SF = 3,938 GPM
TYPE IA (LIGHT HAZARD) AT 232,003 SF = 2,625 GPM
TYPE IIIA (ORDINARY HAZARD) AT 232,003 SF = 3,000 GPM

GROUND FLOOR – 0.1561 X (3,938 GPM) = 614.72 GPM
FLOORS 2–3 – 0.2296 X (2,625 GPM) = 602.70 GPM
FLOORS 4–8 – 0.6143 X (3,000 GPM) = 1842.90 GPM
TOTAL = 3,060.32 – ROUNDED UP TO SJFD FIRE FLOW POLICY = 3,250 GPM

3. FIRE HYDRANT DISTRIBUTION REQUIREMENTS:
GROUND FLOOW – 0.1561 X (5,250 GPM) = 819.53 GPM
FLOORS 2–3 – 0.2296 X (5,250 GPM) = 1,205.40 GPM
FLOORS 4–8 – 0.6143 X (6,000 GPM) = 3,685.80 GPM
TOTAL = 5,710.73 – ROUNDED UP TO SJFD NON SPRINKLER RATES = 5,750 GPM
BASED ON 5,750 GPM FIRE FLOW FROM TABLE B105.1(3) FROM SJ MUNI CODE 17.12 PART 13, THIS PROJECT WILL BE REQUIRED TO PROVIDE A MINIMUM OF 6 HYDRANTS WITH AN AVERAGE SPACING OF 250 FEET FOR THE DURATION OF 4 HOURS.

4. ALL FIRE DEPARTMENT CONNECTIONS (FDC) SHALL BE LOCATED LESS THAN 180' FROM SURROUNDING FIRE HYDRANTS.

5. FIRE FLOW CALCULATIONS WILL BE PROVIDED BY SAN JOSE WATER COMPANY.



STAGING AREA DETAIL

LEGEND

- FIRE HYDRANT LOCATION THAT IS PART OF THE PROPOSE FIRE PROTECTION REQUIREMENT
- EXISTING FIRE HYDRANT
- PROPOSED FIRE HYDRANT
- FDC — PROPOSED FIRE DEPARTMENT CONNECTION
- W — EXISTING WATERLINE
- FS — PROPOSED WATERLINE
- FIRE LADDER TRUCK STAGING AREA
- RED CURB – NO PARKING

FIRE PREVENTION APPROVAL:
FOR HYDRANT LOCATION, FIRE FLOW REQUIREMENTS AND FIRE ACCESS.

BY: _____

DATE: _____

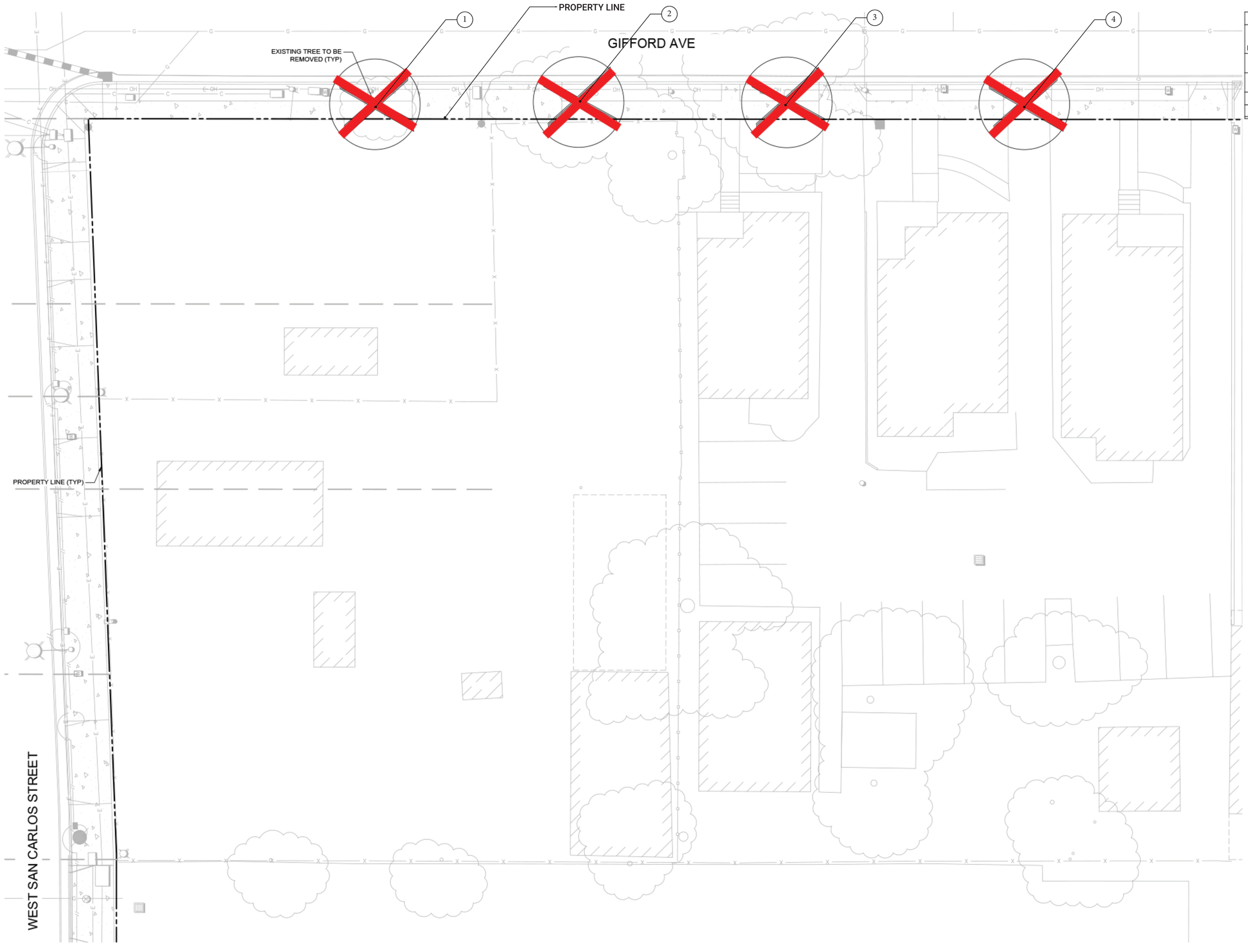
0' 10' 20'

1"=10'

FIRE PROTECTION PLAN **C6.00**

THE GIFFORD (H25-039)

325 GIFFORD AVE, SAN JOSE, CA 95126 JUNE 30, 2026



STREET TREE INVENTORY					
TREE NUMBER	SCIENTIFIC NAME	COMMON NAME	DHB (IN)	NATIVE OR NON-NATIVE	X = REMOVE P = PROTECT
1	*MAGNOLIA GRANDIFLORA*	SOUTHERN MAGNOLIA	8.3	NON-NATIVE	X
2	*PLATANUS ACERIFOILA*	LONDON PLANE	12.3	NON-NATIVE	X
3	*ACER PLATANOIDES*	NORWAY MAPLE	20.7	NON-NATIVE	X
4	*PYRUS CALLERYANA*	CALLERY PEAR	5,5,3,1.5,2	NON-NATIVE	X

TREE DISPOSITION (GROUND FLOOR)

ALL STREET TREES WITHIN THE LIMIT OF WORK ARE PLANNED FOR REMOVAL DUE TO CONFLICT WITH CIVIL OR ARCHITECTURAL IMPROVEMENTS, OR DUE TO ASSUMED UNAVOIDABLE CONFLICT WITH CONSTRUCTION PRACTICES. SEE THIS SHEET FOR TREE INVENTORY.

STREET TREE NOTE:

ACTUAL STREET TREE LOCATION WILL BE DETERMINED BY PUBLIC WORKS AT THE STREET IMPROVEMENT STAGE ON THE PUBLIC IMPROVEMENT PLAN. THE INSTALLATION OR REMOVAL OF THE STREET TREES REQUIRES A PERMIT FROM THE DEPARTMENT OF TRANSPORTATION. THE CITY ARBORIST WILL SPECIFY THE SPECIES.

TREE INVENTORY PHOTOS:



0' 10' 20'

TRUE PROJECT NORTH

TREE DISPOSITION PLAN 1"=10' L1.00

All drawings and written material appearing herein constitute original, and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of the architect.

DESIGN INTENT (GROUND FLOOR):

AT THE GROUND LEVEL, LANDSCAPE IMPROVEMENTS WILL BE LIMITED TO STREET TREE WELLS, NATURAL GRAY CONCRETE, AND STANDARD (TO BE DETERMINED) CITY-REQUIRED FURNISHINGS AND FINISHES, PER CITY DIRECTION. PROPOSED STREET TREES WILL BE PLACED TO COORDINATE WITH ARCHITECTURAL IMPROVEMENTS, UTILITIES, PARKING, EXISTING-TO-REMAIN STREET LIGHTS AND OTHER STRUCTURES.





1 STREET TREE GRATE



2 PROPOSED STREET TREE
(ALONG W. SAN CARLOS ST.)
BOTANICAL: CARPINUS BETULUS 'FASTIGIATA'
COMMON: UPRIGHT EUROPEAN HORNBEAM
QUANTITY: 3
SIZE: 24" BOX
SPACING: 30' O.C.



3 DECORATIVE PLANTER POTS

4 WIDENED SIDEWALK ALONG GIFFORD STREET, REFER TO CIVIL PLANS

5 WIDENED SIDEWALK ALONG W SAN CARLOS STREET, REFER TO CIVIL PLANS



6 PROPOSED STREET TREE
(ALONG GIFFORD AVE.)
BOTANICAL: TRISTANIOPSIS LAURINA
COMMON: WATER GUM
QUANTITY: 8
SIZE: 24" BOX
SPACING: 20' O.C.

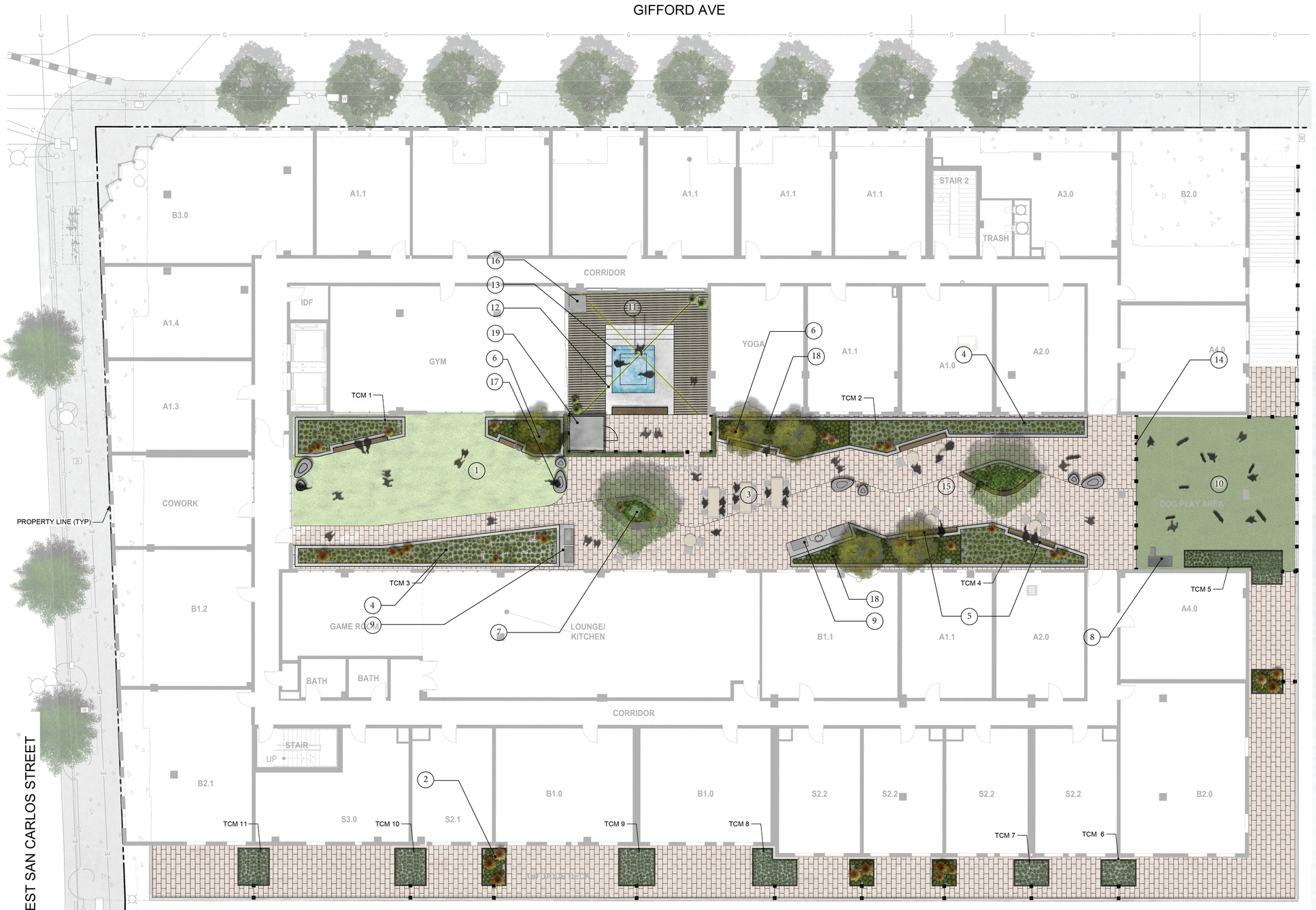
0' 10' 20'

1"=10'

TRUE PROJ NORTH

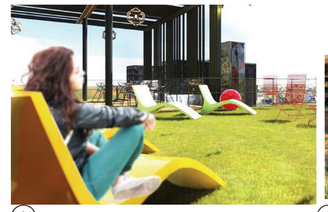
LANDSCAPE PLAN - GROUND FLOOR L1.01

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DESIGN INTENT (SECOND FLOOR COURTYARD):

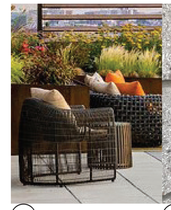
THE 2ND FLOOR PODIUM-LEVEL COURTYARD DESIGN AIMS TO PROVIDE A MULTI-FUNCTIONAL SPACE FOR RESIDENTS. AT THE HEART OF THE COURTYARD, AN OPEN PLAZA IS DESIGNED FOR RESIDENTS TO SOCIALIZE AND LOUNGE IN THE NEARBY SPA. THE NORTHERN STRETCH OF THE COURTYARD IS CHARACTERIZED BY A MULTI-USE TURF AREA FOR OPEN-AIR FITNESS, LOUNGING, OR LARGER GATHERINGS. THE SOUTHERN END OF THE SPACE BREAKS OUT INTO MORE INTIMATE SPACES FOR SMALLER GROUPS, AND ONE-ON-ONE MOMENTS. RESIDENT ROOMS LOOK OUT ONTO THE COURTYARD, BUFFERED BY LUSH PLANTINGS. FLOW-THROUGH PLANTERS ARE STRATEGICALLY LOCATED ACROSS THE PODIUM-LEVEL TO CAPTURE AND TREAT ROOF RUNOFF.



1 MULTI-USE TURF AREA



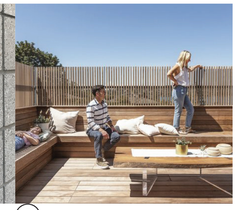
2 RAISED PLANTER



3 DINING AREA



4 FLOW-THROUGH PLANTER
SEE CIVIL PLANS



5 BENCH SEATING

6 ACCENT TREE 1
BOTANICAL: LAURUS 'SARATOGA'
COMMON: SARATOGA LAUREL
SIZE: 24" BOX
SPECIES MAY BE SUBJECT TO CHANGE

7 ACCENT TREE 2
BOTANICAL: OLEA EUROPAEA ' SEVILLANO'
COMMON: SEVILLANO OLIVE TREE
SPECIES MAY BE SUBJECT TO CHANGE
SIZE: 48" BOX

8 DOG WASH AREA

9 COUNTER HEIGHT LEDGE W/ GRILLS

10 DOG PLAY AREA

11 WOOD DECKING

12 FESTOON LIGHTS

13 SPA

14 60" HEIGHT FENCE

15 DECORATIVE HARDSCAPE

16 SHOWER AREA

17 PEBBLE SEATING

18 CONVENTIONAL PLANTER

19 SAUNA

STORMWATER CONTROL PLANTING NOTES (FLOW-THROUGH PLANTERS):

1. Include three (3) inches of composted, non-floatable mulch in areas between plantings.
2. Project will not locate trees within the basin or bank planting zones of Bioretention Areas, but rather on the upland planting zones per Appendix D of the SCVURPPP C.3 Stormwater Handbook. Trees will also not be located directly in line with or next to stormwater inlets (curb openings, bubble box emitters, etc.) and will offset or relocated trees where necessary outside of the Bioretention Area basin and bank planting zones to maximize runoff dispersal throughout Bioretention Areas.

ORNAMENTAL PLANTS MAY INCLUDE:

ASPARAGUS DENSIFLORA 'MYERSII' - FOXTAIL ASPARAGUS
BUXUS SEMPERVIRENS - BOXWOOD
EUONYMUS JAPONICUS - EVERGREEN EUONYMUS
HELICTOTRICHON SEMPERVIRENS - BLUE OAT GRASS
JUNCUS PATENS - CALIFORNIA GRAY RUSH
LOMANDRA LONGIFOLIA 'PLATINUM BEAUTY' - MAT RUSH
MUHLENBERGIA DUBIA - PINE MUHLY
MYRTUS COMMUNIS 'COMPACTA' - DWARF MYRTLE
OLEA EUROPAEA 'LITTLE OLLIE' - DWARF OLIVE
PITTOSPORUM TENUIFOLIUM - KOHUHU
RHAMNUS CALIFORNICA - COFFEEBERRY
SANSEVIERIA TRIFASCIATA - SNAKE PLANT

FLOW-THROUGH PLANTS MAY INCLUDE:

CAREX PANSA - DUNE SEDGE
CAREX DIVULSA - BERKELEY SEDGE
CHONDROPETALUM TECTORUM - CAPE RUSH
JUNCUS PATENS - CALIFORNIA GRAY RUSH
STIPA ARUNDINACEA - NEW ZEALAND WIND GRASS

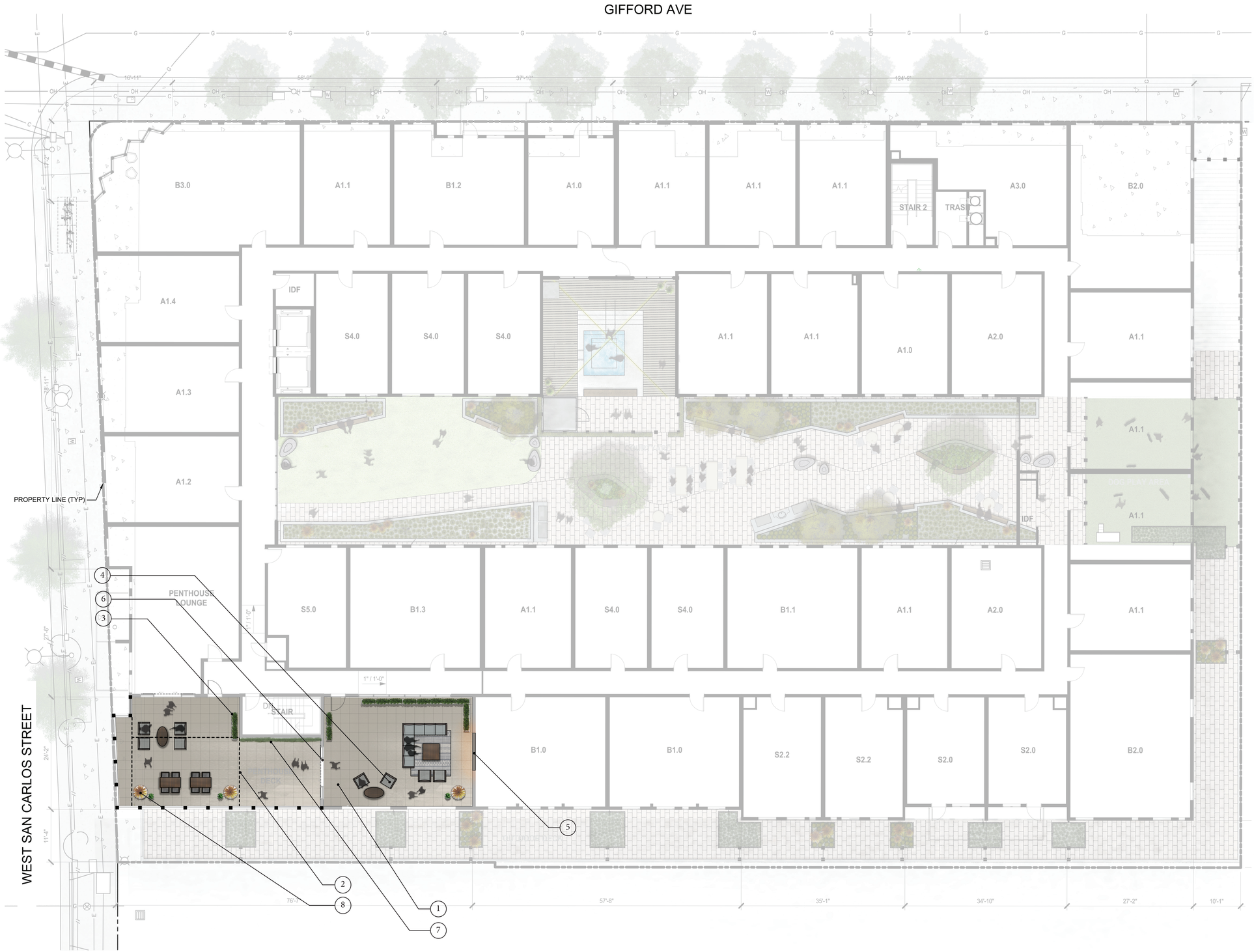
0' 10' 20'

TRUE PROJ NORTH/GRID N

1"=10'

LANDSCAPE PLAN - SECOND FLOOR L1.02

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DESIGN INTENT (EIGHTH FLOOR TERRACE):

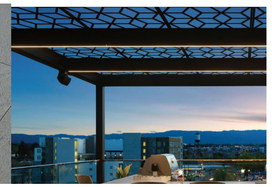
THE EIGHTH FLOOR (PENTHOUSE) TERRACE IS A SOCIAL HOTSPOT FOR THE BUILDING, AND IS DESIGNED TO FACILITATE CONNECTIVITY. CONVENTIONAL PLANTERS FRAME OUT THE SPACE THROUGHOUT THE TERRACE.



1 DECORATIVE PAVING (PEDESTAL SYSTEM)

3 RAISED PLANTER

5 FIREPLACE



2 AWNING WITH LED LIGHTING

4 HEATED SEATING

6 SLIDING DOOR

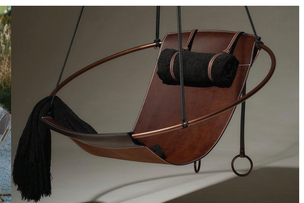


7 ARTIFICIAL GREEN WALL



8 DECORATIVE PLANTER







ORNAMENTAL PLANTS MAY INCLUDE:

AGAVE 'BOUTIN BLUE' - BOUTIN BLUE AGAVE
ASPARAGUS DENSIFLORA 'MYERSII' - FOXTAIL ASPARAGUS
BUXUS SEMPERVIRENS - BOXWOOD
EUONYMUS JAPONICUS - EVERGREEN EUONYMUS
HELICTOTRICHON SEMPERVIRENS - BLUE OAT GRASS
JUNCUS PATENS - CALIFORNIA GRAY RUSH
LOMANDRA LONGIFOLIA 'PLATINUM BEAUTY' - MAT RUSH
MUHLENBERGIA DUBIA - PINE MUHLY
MYRTUS COMMUNIS 'COMPACTA' - DWARF MYRTLE
OLEA EUROPAEA 'LITTLE OLLIE' - DWARF OLIVE
PITTOSPORUM TENUIFOLIUM - KOHUHU
RHAMNUS CALIFORNICA - COFFEEBERRY
SANSEVIERIA TRIFASCIATA - SNAKE PLANT

0' 10' 20'

TRUE PROJ. NORTH

1"=10'

LANDSCAPE PLAN - EIGHTH FLOOR

L1.03

GROUND LEVEL / STREETSCAPE



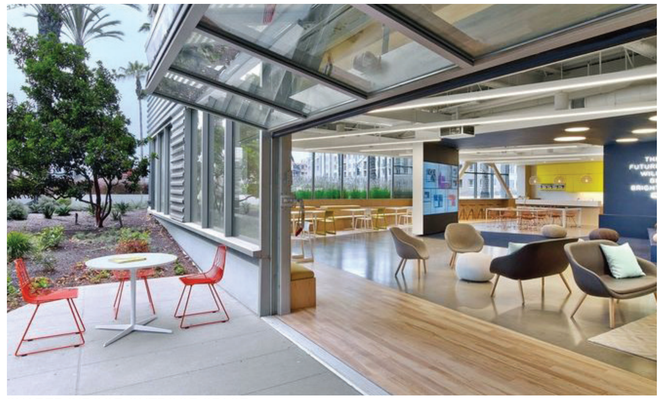
ENGAGING WITH THE STREETSCAPE AND PUBLIC REALM



SOFTENING THE BUILDING/STREETSCAPE INTERFACE



WIDENED SIDEWALKS



SHARED INDOOR/OUTDOOR SPACE

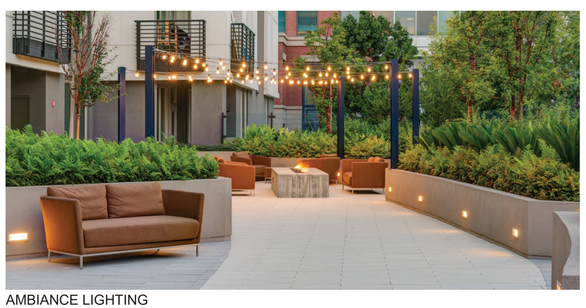
PODIUM-LEVEL COURTYARD



DIVERSE MIX OF GATHERING SPACES AND SEATING OPTIONS



VEGETATION FOR SPATIAL DELINEATION



AMBIANCE LIGHTING

LEVEL 8 TERRACE



OUTDOOR COVERED DINING AND LOUNGING SPACE



GROUP LOUNGING



MAXIMIZING NORTH FACING VIEWS (DOWNTOWN)



DESIGNED FOR SOCIAL GATHERING

0' 10' 20'

1"=10'

PRELIMINARY IMAGERY BOARD

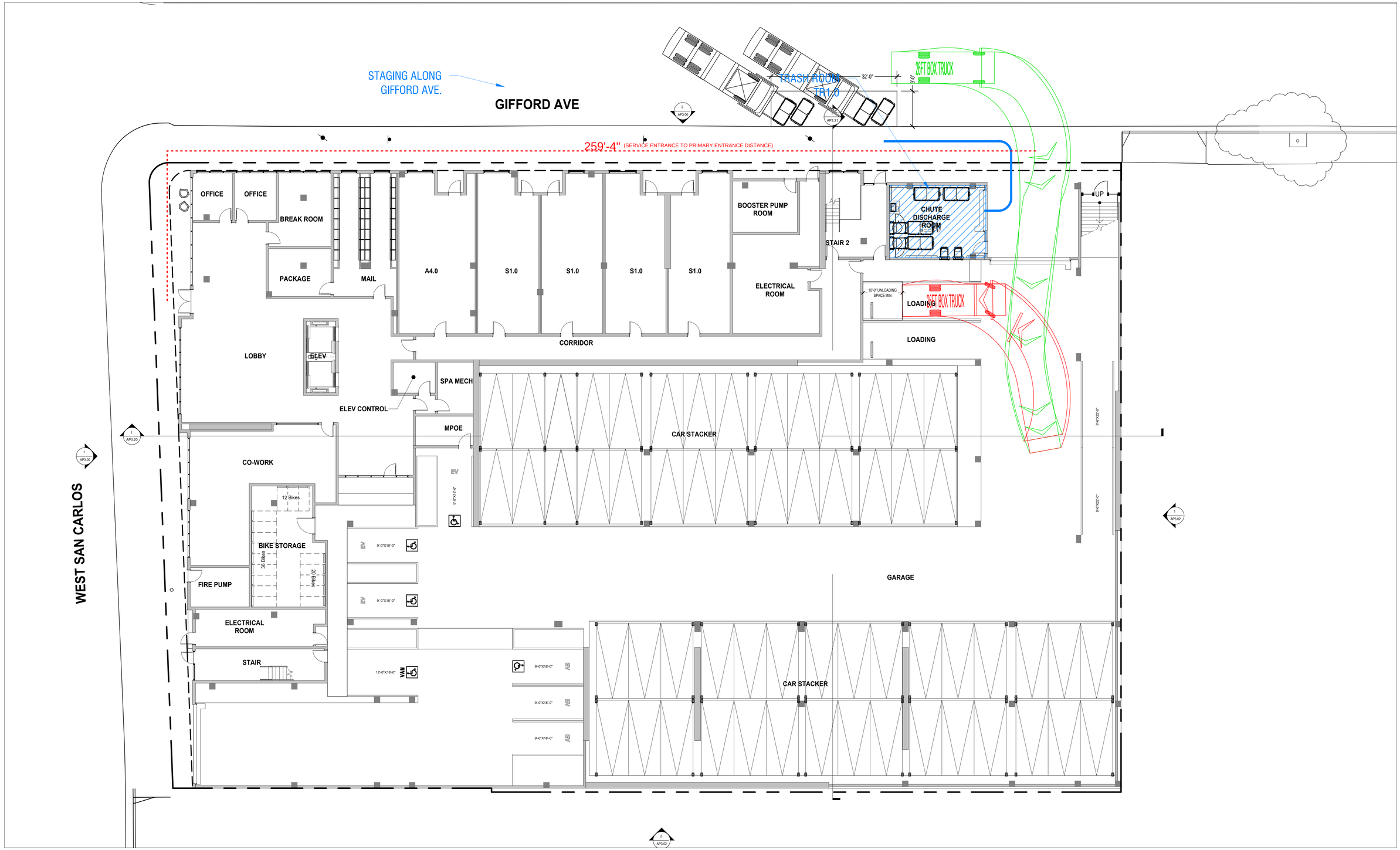
AP2.01

THE GIFFORD (H25-039)

325 GIFFORD AVE, SAN JOSE, CA 95126

JANURARY 30, 2026

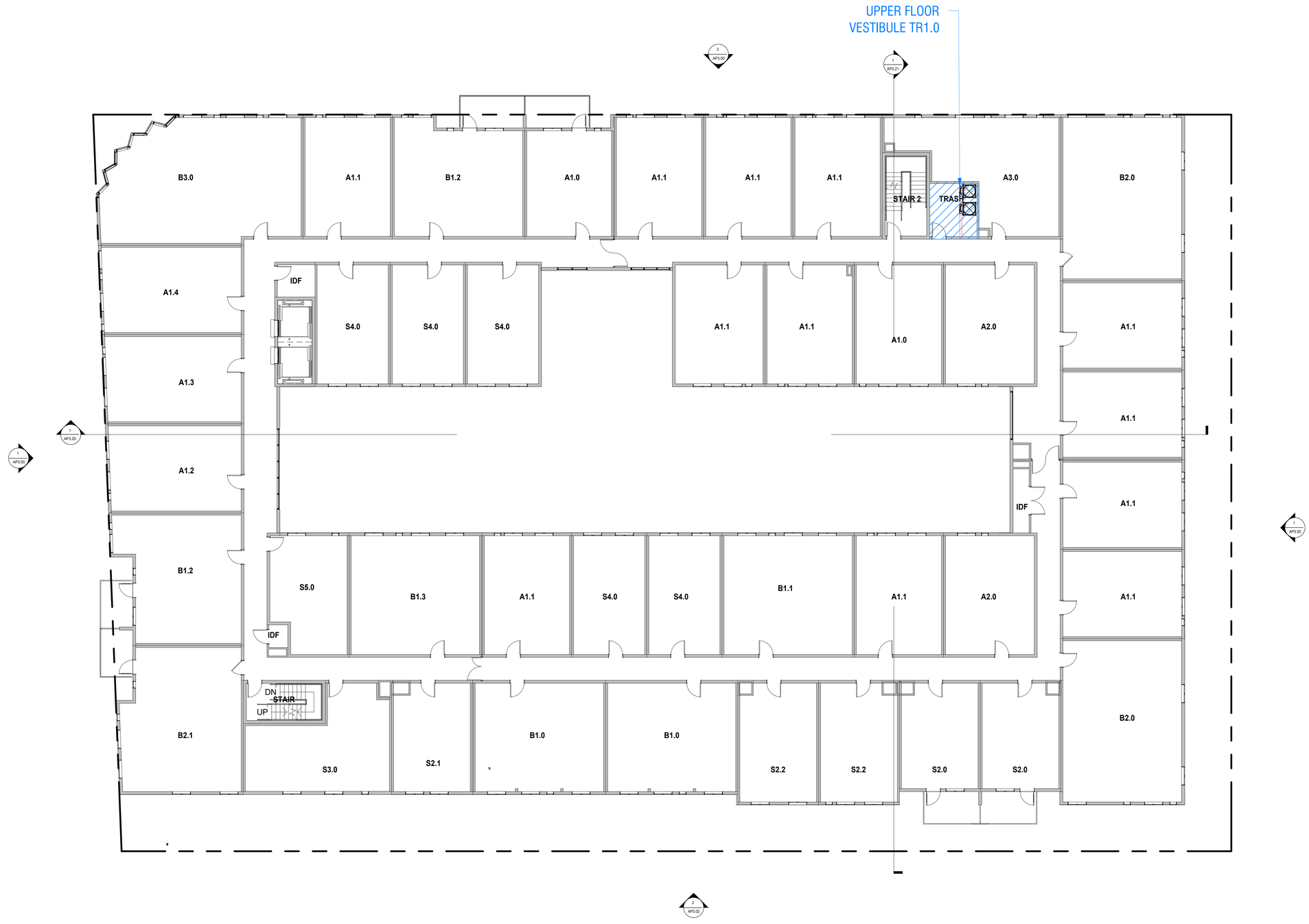
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1 LEVEL 1: SITE PLAN
3/32" = 1'-0"

TR0.1

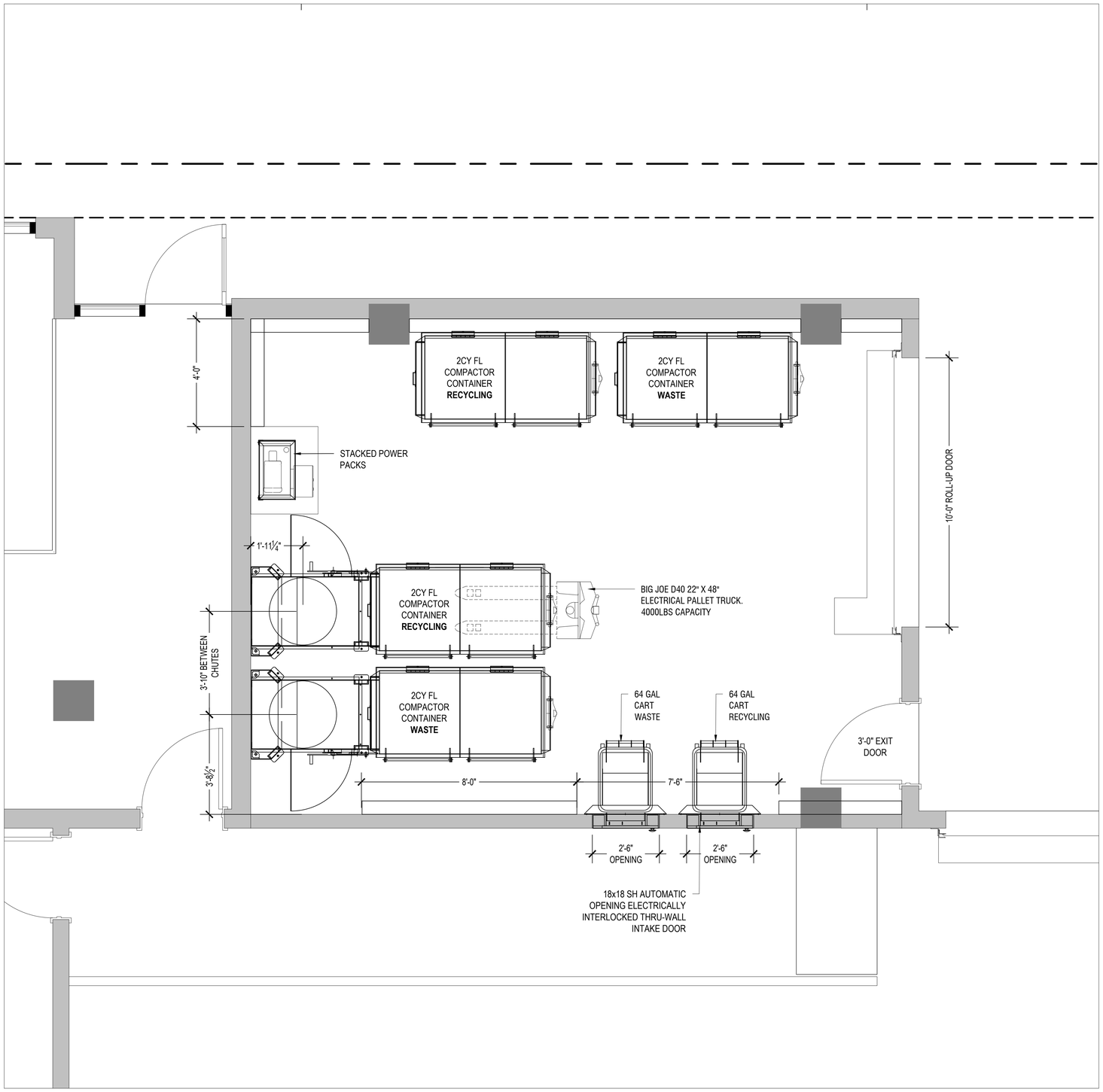
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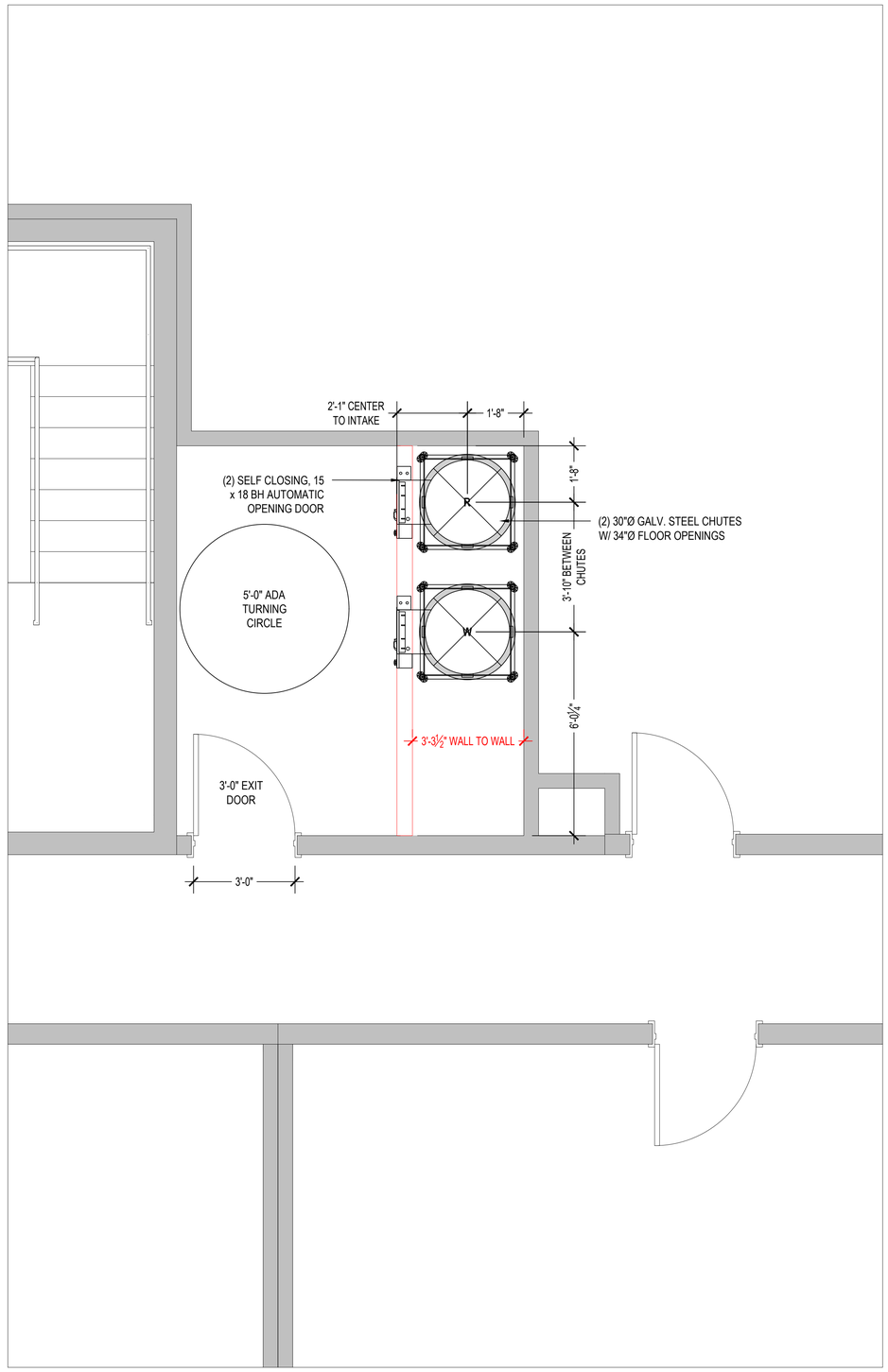
1 LEVELS 4-7: TYP FLOOR PLAN
3/32" = 1'-0"

TR0.1

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1 **LEVEL 1: TRASH ROOM**
1/2" = 1'-0"



2 **LEVELS 2-8: UPPER FLOOR VESTIBULES**
1/2" = 1'-0"

TR1.0

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Santa Rita Trust

Dina Casanova and Jamie Casanova, Trustees

[redacted]

July 14, 2026

Sent by Electronic Mail

Jerad Ferguson, Hearing Officer/Principal Planner

Christopher Burton, Director

Jacqueline Guerrero, Project Manager

Department of Planning, Building and Code Enforcement

City of San Jose

200 East Santa Clara Street,

San Jose CA 95113

Re: Director Hearing on July 15, 2026 for the Site Development Permit for “The Gifford” located at 470 West San Carlos Street. File Nos. H25-039 & ER25-225. Applicant: Urban Catalyst

Dear Director Burton, Hearing Officer Ferguson, and Ms. Guerrero,

As the Trustees of the Santa Rita Trust, that holds legal title to the properties located at 331 and 379 Gifford Avenue (“Santa Rita Properties”), we are requesting that this letter be entered into and become part of the administrative record for the Director Hearing and any subsequent appeal.

Santa Rita Properties is adjacent to The Gifford on the East side, and as Trustees we share some of the same concerns as the neighbors and have unique concerns regarding our properties since we are right next to the proposed development and also have a commercial tenant at Santa Rita Properties. In reviewing the documents there are many gaps of information, resulting in several questions. Following are some of our concerns and requests:

1. **Traffic Safety**
    - We have concerns about traffic safety during construction and after the building is finished.
    - A Potential lack of visibility when exiting the driveway used by Santa Rita Properties and its commercial tenant.
    - Santa Rita Properties must have unimpeded access to our driveway and buildings at all times.
    - To our knowledge there has not been any traffic or transportation analysis or report examining the proposed use of 276 units with 217 parking spaces, motorcycle spaces, visitors, deliveries, exiting and entering (two way traffic) onto Gifford Ave right next to the Santa Rita Properties' driveway.

    Request: Conduct a transportation analysis. Based on the analysis, determine with neighborhood input whether the traffic exiting onto Gifford Avenue should be restricted to flow to the left out of the driveway to maintain traffic safety.

2. **Fire Safety**
    - There are fire safety concerns about the lack of separation between the Santa Rita Properties building which is adjacent to the East side of The Gifford building due to the zero setback.

    Request: Provide an analysis of the Fire Code and the criteria used to determine fire safety under The Giffords proposed Site Development Permit Request

3. **The Dog Park**
    - We have a concern about the dog park located on the 2nd floor at the property line and open (slated metal fence) to Santa Rita Properties. This creates a potential for a noise nuisance, light spillage from the open area, odor and potential for dogs to urinate on the side of the fence and onto Santa Rita Properties.

    Request: Require the applicant to create a sound barrier between the dog park and Santa Rita Properties, shield any light spillage on our property, locate waste receptacles away from the property line, and create a barrier to prevent liquid seepage through the fence and onto Santa Rita Properties.

4. **Proposed Grading and construction**
    - We have a concern about the impact to Santa Rita Properties as a result of the proposed grading, substantial dig, construction and the impact from the underground parking and wall on the East side of The Gifford.

    Request: A detailed plan from the Applicant as information becomes available to ensure structural integrity of Santa Rita Properties and its structures during construction.

The Trustees of the Santa Rita Trust appreciate your assistance and consideration in this matter and are willing to work with the City and the Applicant to resolve these concerns.

Respectfully submitted,

Santa Rita Trust

Dina Casanova and Jamie Casanova, Trustees

Cc: Urban Catalyst: Mike Walsh Projects Director

Outlook

Re: Proposed new use for 311 Gifford

From Jake Lavin [redacted]
Date Sun 6/14/2026 12:52 PM
To Guerrero, Jacqueline <Jacqueline.Guerrero@sanjoseca.gov>
Cc Sutherland, Kathy [redacted]; mattbernardis <mattbernardis@urbancatalyst.com>; Lee, Lynn <TheresaLynn.Lee@sanjoseca.gov>; Sarah Springer [redacted]; Joshua Burroughs <jburroughs@urbancatalyst.com>; Mike Walsh <mwalsh@urbancatalyst.com>; Bert Weaver [redacted]; Mulcahy, Michael <Michael.Mulcahy@sanjoseca.gov>; Meiners, Laura <Laura.Meiners@sanjoseca.gov>

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Hi Jacqueline and Matt, the neighborhood has learned that the City is voting on Tuesday to provide two direct financial contributions to Urban Catalyst to construct the Gifford Project even though the project has not had a public hearing. Given that, it is imperative to understand if any progress has been made on addressing the neighborhood's feedback concerning the design of the project. Could you please provide a response tomorrow so we know the status ahead of the City's vote to approve the Gifford Project. The outstanding design issues are:

- Inadequate setback/massing along Gifford. Floors 2-8 are composed as a solid 240' wall that is set back 8' from the face of curb (not the property line, the curb). The balconies will extend out to within 2' from the curb (not the property line, the curb). This is unprecedented and inadequate for a narrow street like Gifford. At least 2' additional feet of setback is needed. Below I suggested one seemingly easy fix. Another easy fix is to install bulbouts in the place of 2-3 parking spaces on Gifford. There are many design solutions.
- Lack of architectural detail with a checkerboard paint job substituting for a high quality design that should be expected in San Jose on a prominent corner (not to mention with the City subsidizing the project). There are many design solutions within the spec level and budget for this project. Several were brainstormed in prior emails.
- Plan for pedestrian crossing at Gifford and San Carlos. This is not a request to construct the crossing, just to have a plan for this long-promised and desperately needed safety measure. Doesn't the City and developer want there to be a plan for this crossing before the Gifford Project is constructed?
- Add bulbout at San Carlos for safety and enhancement of the property like what the City is doing on San Carlos a few thousand feet to the west. The project is already demolishing this area for the new storm drain, utility undergrounding, etc - why not put it back in a way that is a long-term enhancement to the neighborhood?
- Trash pickup from San Carlos like the other commercial properties.

Thanks - Jake

On Fri, May 8, 2026 at 3:37 PM Jake Lavin [redacted] wrote:

> Hi Matt and Jacqueline, below is a suggestion for how the project could gain an extra 2' that is so badly needed for the setback along Gifford. Let me know your thoughts. This change would result in a setback condition of 12' to the ground floor and 10' to the upper floors along Gifford. That is still **very** tight, but much better than the current proposal. Thanks - Jake

On Wed, May 6, 2026 at 4:01 PM Guerrero, Jacqueline <Jacqueline.Guerrero@sanjoseca.gov> wrote:

> Hi Jake,
>
> Thank you for following up with your additional comments and feedback for the proposed project. I have reviewed the items outlined in the email. Please see my response below:
>
> - **Pedestrian Crossing at Gifford and San Carlos –** This question is more targeted towards our Department of Transportation team. I have reached out to them for more information and am waiting to hear back. I will follow up with more information once I receive it.
>
> - **Bulbouts –** This question is more for our Public Works team and Department of Transportation team. The Department of Transportation is responsible for traffic-calming measures in the City. While the Public Works team provides the standard sidewalk improvements required for a project. I will follow up with more information once I receive it.
>
> - **Garbage –** Currently, the proposal is showing that garbage collection is occurring from Gifford Avenue. I have reached out to our waste management team, who is reviewing this project to see if there are any issues with relocating the collection entrance to West San Carlos. I will follow up with more information once I receive it.
>
> - **Design Example –** A lot of the projects in Downtown San Jose have had a small setback for their frontage. Some examples of the projects I have recently gotten

approved are Fountain Alley and the Arbor project. The plans for those projects should be available online at www.sjpermits.org. The associated file numbers are H24-049 and H24-050, which are the project file numbers.

- **Stucco/façade details –** The project uses stone on the ground floor and stucco on the upper floors. The use of different stucco and window colors creates visual interest on the facades. This aligns with the design standards noted for the Downtown Design Guidelines. I've included screenshots of these standards. These sections noted below are located on 4.4.3 and 4.4.4 on the Downtown Design Guidelines page.

I will be following up with additional information, but please feel free to reach out with any further comments or questions.

Best,

Jacqueline Guerrero, Development Review Planner
Planning Division, Planning, Building and Code Enforcement Department
City of San José | 200 E. Santa Clara Street | San José, CA 95113
Mobile: **408.535.8235** | jacqueline.guerrero@sanjoseca.gov

From: Jake Lavin [redacted]>
Sent: Monday, May 4, 2026 8:33 PM
To: Sutherland, Kathy [redacted]; mattbernardis <mattbernardis@urbancatalyst.com>; Lee, Lynn <TheresaLynn.Lee@sanjoseca.gov>; Sarah Springer [redacted]; Joshua Burroughs <jburroughs@urbancatalyst.com>; Mike Walsh <mwalsh@urbancatalyst.com>; Bert Weaver [redacted]; Mulcahy, Michael <Michael.Mulcahy@sanjoseca.gov>; Guerrero, Jacqueline <Jacqueline.Guerrero@sanjoseca.gov>; Meiners, Laura <Laura.Meiners@sanjoseca.gov>
Subject: Re: Proposed new use for 311 Gifford

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Hi all, thank you for the meeting. I was hoping that there could have been more discussion. Unfortunately, the meeting was cut off when my hand was still raised. We did not get a chance to discuss the importance of advancing a plan to beautify the underpass. That should be a big priority for everyone on this email.

I was honestly surprised that Urban Catalyst was not prepared to make a definitive statement about being a responsible site owner if the project does not move forward and about making

some improvements to the plan between now and final approval. The neighborhood's thoughtful remarks balanced with support for the project were teed up for Urban Catalyst to say "we're going to take these remarks to heart and make some improvements". That is how homegrown developers who want to be the top dog in the City endear themselves to the City and community. Will there be **any** effort on the part of Urban Catalyst to consider refinement of the plans?

Laura and Jacqueline, the project needs some work on the City side. What is the plan for the long-promised pedestrian crossing at Gifford and San Carlos? Will the City require that garbage be picked up from the San Carlos entrance? I heard Urban Catalyst suggest that there is commercial service on Gifford Ave. Yes, two small businesses have garbage service on Gifford but the service is only once a week. This project will have garbage pickup every day or every other day. The garbage needs to be accessed from San Carlos. On the design side, can you point to another project with similar massing (i.e. a solid 8' story box) that has a 240' frontage and **only** a 8' setback? I really would love to see a good example. It can be anywhere in the Bay Area or LA. Would the City allow bulbouts (at the corner and one or two more on Gifford) to allow for the trees/landscaping to move into the street so there could be a little breathing room along the building? Is the City going to require Urban Catalyst to do some additional study of how it might improve the aesthetics? Is there an image or description from any of the City's design guidelines that supports approving an all-stucco flat building with flat windows?

Thanks again for the consideration of our feedback. I look forward to a response and I would be happy to meet off-line. I think this stretch of the San Carlos can and should redevelop quickly. It really is a great location for this project. Thanks - Jake (408-892-6365)

On Thu, Apr 30, 2026 at 6:12 PM Jake Lavin [redacted] wrote:

> Hi everyone, I want to share my thoughts before the community meeting.
>
> First of all, I am very supportive of seeing this site developed with the proposed use. I am prepared to deal with a few more years of construction activities (we are already into year 5!!!) to facilitate the project. With that said, I would like to see a real plan by Urban Catalyst and the City to deal with the scenario where the development does not proceed in a timely fashion. What is the agreement as to how Urban Catalyst will manage the site if it does not proceed with the project? It is not OK to leave the site as a fenced yard and leave the community to deal with the weeds, trash, graffiti, vagrants, rodents, etc. I would like to hear that the developer and City have reached an acceptable agreement on this issue as part of the discretionary approvals. And the City should do this with all projects.
>
> Here are my comments on the project. All in all, with further study and adjustments, I think this project can really help catalyze the improvement of San Carlos. It is a great location. The residents of the project will be drawn to its proximity to a livelier downtown (applause to the City!) and Caltrain. Pedestrian safety and experience should be a shared priority for the developer, City and community.
>
> 1. Kudos on the sawtooth windows and corner treatment! I appreciate seeing something innovative with the architecture.

2. The architecture is otherwise very boxy. I understand the need to make the project pencil, so I am not advocating for a redesign. Keeping with the same basic program of 281 units, can there be a second bank of balconies on Gifford? That would do wonders for breaking up the façade. Could the windows be recessed? That is always a timeless approach. Finally, to me, the most redeeming features of the design are the use of the metal panels to break up the stucco and the use of dark framed windows. Will Urban Catalyst commit to retaining these materials as the design progresses through construction?

3. I am not seeing the utility undergrounding on the plans. Did I miss something? It has always been communicated to us that the project would be undergrounding the overhead lines/poles across the project frontage.

4. Trash and service access should be via the San Carlos garage entrance, no different than the other commercial properties on San Carlos. The prior project design had it on San Carlos.

5. The residential experience on Gifford should be improved. The ground level of the building is only 10’ from the curbline. And floors 2-8 (i.e. from elevation 15'-90') are cantilevered over the ground level and are only 8’ from the curbline. That is seriously tight!!! I am in favor of maxing out every square inch, but a project this large needs to feel comfortable and residential at the ground level. Could the ground floor be recessed back by another 1’-2’, thus increasing the cantilever, to gain a little more room for some base landscaping? Could the trees be moved into 2-3 landscaped bulbouts in the street (and then reduce the number of trees)? I would love for the City and developer to come up with some improvements for the pedestrian and renter experience.

6. Speaking of bulbouts, the Gifford and San Carlos corner is a great candidate for one! Currently, visibility from Gifford is often significantly blocked by cars parked on San Carlos. Exiting drivers have to take a leap of faith in order to make a left turn onto San Carlos (or dare to attempt the angled crossing of San Carlos). In addition, Gifford is a known shortcut to 87, and some drivers pull into Gifford way too fast. I have had a few close encounters crossing Gifford within the crosswalk! A generous bulb out would address both of these issues and make the building corner look even nicer.

7. What is the plan for the pedestrian crossing at Gifford and San Carlos? This can has been kicked down the road for more than 20 years!!! The residents of this project deserve to have a plan. Current residents deserve to have a plan. What is the plan? Ideally the City and developer can come up with a way to fund it now and have the developer build it. Who is coming up with the plan before it is prompted by a tragic accident? We can't expected people to walk down to Josepha or to Delmas to cross the street.

8. I would love to have the City Engineer take a close look at the traffic and circulation issues presented by this project so that everyone gets the best possible plan. As I mentioned, Gifford is a short cut in both directions – to get to 87 or 280 via Auzerais or to get to downtown from Auzerais and avoid the nightmare lights at Woz way. Obviously, I am not thrilled about 281 units of additional traffic impacting this little street. We have one chance to get the traffic and circulation design correct. Can the City Engineer take a close look at the issues and provide their professional advice?

9. Finally, will Urban Catalyst be a true urban catalyst and lead the charge to get some minor beautification of the underpass into downtown? During the Super Bowl, the telecast showed San Jose and what did they show? The underpass at Santa Clara with the blue donut lights! Let's keep it simple and carry out something similar for San Carlos. Put some fun lights and color on the ceiling and call it good. I really appreciate that the Mayor and City Council have emphasized basic beautification around downtown. I have noticed the extra mulching, planting, painting and lighting. Way to go! With the hotel and new housing on San Carlos, it is time to spruce up the underpass.

10. Finally #2, construction noise before the published start hours is so frustrating. It sucks when the back-up beeping noises are penetrating your skull at 5:30am on a Saturday or Sunday. I know that subs cannot be completely controlled. They don't read their contracts. They forget what they are told. They show up from Tracy and start working. But they do respond if there are financial consequences. I would like Urban Catalyst to actually fine the subs that violate the start of work hours. Maybe they already do it??? Urban Catalyst can report on the fines they have collected and use the money to keep the neighbors happy with site management. This would be in addition to the usual City ordinances and remedies.

Thank you – Jake Lavin, [redacted]

On Thu, Apr 30, 2026 at 1:53 PM kathy sutherland [redacted] wrote:

Thank you for the clarification.
Kathy

Kathy Sutherland
[redacted]

On Apr 30, 2026, at 1:38 PM, Matt Bernardis [redacted] wrote:

Hi Kathy We have two garage openings total, one at each end of the building at West San Carlos and at Gifford

thanks,

Matt Bernardis

Senior Project Manager

[redacted] | mattbernardis@urbancatalyst.com

URBANCATALYST.COM

[redacted]

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On Thu, Apr 30, 2026 at 1:28 PM kathy sutherland <[redacted]> wrote:

Hi Matt,
Please confirm the number of entrance/exit points to the parking for your development.
I know there is one on Gifford, but I'm not sure if there is one on San Carlos.
Thank you,
Kathy
Kathy Sutherland
[redacted]

> On Feb 27, 2026, at 10:48 AM, Matt Bernardis [redacted] > wrote:
>
> Kathy, Bert, Sara, Lynn - Please meeting you all in person yesterday. See below as discussed:
>
> 1. Complete, current planning set

2. Cross walk: There is no specific requirement to construct a crosswalk. However, we will be required two provide related pedestrian/signal contributions:

- **$55,000** toward future multi modal pedestrian improvements MAY end up being used for a crosswalk at city discretion
- **$18,000** for signal upgrades including High Visibility Backplates and Accessible Pedestrian Signals at San Carlos St & Delmas Ave

3. Street tree: Water Gum - The water gum (Tristaniopsis laurina) is a small to medium Australian evergreen tree that grows along creek banks and waterways. It has smooth, attractive bark that peels in patches of yellow, orange, and brown, glossy dark green leaves, and clusters of small yellow flowers in summer. It typically reaches 25–35 feet tall and is popular as an ornamental and street tree.
4. Restricted Parking Passes will not be pursued, and lynn confirmed would not be issued
5. Mike spoke with Swenson about Aquino and noise/light mitigation for after hours work

<image.png>

Matt Bernardis

Senior Project Manager

916.606.3225 | [redacted]

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99 S Almaden Blvd, Ste 600, San Jose CA 95113

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delivery of a private placement memorandum, certain organizational documents, subscription agreement, and/or certain other information A copy of the private placement memorandum, and other related investment documents, will be made available to investors upon request Only accredited investors as defined in Rule 501 of Regulation D can invest in Urban Catalyst products. Past performance is not a guarantee of future results. Investments in securities are speculative, involve a high degree of risk, and are not suitable for all investors. Potential investors should consult their own legal and tax professionals prior to making investment decisions This message, and its attachments, cannot be guaranteed to be secure or free of errors or viruses.

On Fri, Feb 13, 2026 at 1:06 PM kathy sutherland [redacted] > wrote:

Let's move forward with the 26th.
Jake will send his comments.
Please confirm the exact time!
And hopefully we can still meet at the site.
Thanks!
Kathy

Kathy Sutherland
[redacted]

On Friday, February 13, 2026 at 08:11:22 AM PST, Sarah Springer [redacted] wrote:

Bert and I are available on 2/26 between noon and 2pm. Hesitant about Jake not being there.

Sarah

From: Lee, Lynn <TheresaLynn.Lee@sanjoseca.gov>
Sent: Thursday, February 12, 2026 6:42 PM
To: Jake Lavin [redacted]; Sutherland, Kathy [redacted]
Cc: mattbernardis <mattbernardis@urbancatalyst.com>; Sarah Springer [redacted]>; Joshua Burroughs <jburroughs@urbancatalyst.com>; Mike Walsh <mwalsh@urbancatalyst.com>; Bert Weaver [redacted]; Mulcahy, Michael <Michael.Mulcahy@sanjoseca.gov>
Subject: Re: Proposed new use for 311 Gifford

Hi All,

Kathy - I am available as well on 2/26 between noon and 2pm. Hopefully this time works for others as well.

Lynn Lee
Chief of Staff
Office of Councilmember Michael Mulcahy
200 E. Santa Clara Street, 18th Floor
San José, CA 95113
408.535.4906

<image001.png>

From: Jake Lavin [redacted]
Sent: Thursday, February 12, 2026 3:18:37 PM
To: Sutherland, Kathy [redacted]>
Cc: mattbernardis <mattbernardis@urbancatalyst.com>; Sarah Springer [redacted]; Lee, Lynn <TheresaLynn.Lee@sanjoseca.gov>; Joshua Burroughs <jburroughs@urbancatalyst.com>; Mike Walsh <mwalsh@urbancatalyst.com>; Bert Weaver [redacted]; Mulcahy, Michael <Michael.Mulcahy@sanjoseca.gov>
Subject: Re: Proposed new use for 311 Gifford

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You don't often get email from [redacted]. Learn why this is important

Hi Kathy, sorry, I will be out of town on the 26th. The following week is open. But feel free to move forward without me, I can send my thoughts in advance. Thanks - Jake

On Thu, Feb 12, 2026 at 2:57 PM kathy sutherland [redacted] wrote:

> Will Thursday the 26th sometime between noon and 2:00 work?
>
> I'm available then and it sounds like it will work for Matt and the UC crew.
>
> Kathy Sutherland
>
> [redacted]
>
> On Feb 12, 2026, at 1:05 PM, Matt Bernardis <mattbernardis@urbancatalyst.com> wrote:
>
> Ok we can do same times the following week

Matt Bernardis
Senior Project Manager
[redacted] |
mattbernardis@urbancatalyst com
URBANCATALYST.COM
[redacted]

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On Thu, Feb 12, 2026 at 12:27 PM Sarah Springer [redacted] > wrote:

> Bert and I are out of town all week.
>
> Get Outlook for Android
>
> ---
>
> **From:** kathy sutherland [redacted]
> **Sent:** Thursday, February 12, 2026 12:23:16 PM
> **To:** Lynn Lee <TheresaLynn.Lee@sanjoseca.gov>
> **Cc:** mattbernardis <mattbernardis@urbancatalyst.com>; Joshua Burroughs <jburroughs@urbancatalyst.com>; Mike Walsh <mwalsh@urbancatalyst.com>; Bert Weaver [redacted]; Sarah Springer [redacted]; Jake Lavin [redacted]; Michael Mulcahy <Michael.Mulcahy@sanjoseca.gov>
> **Subject:** Re: Proposed new use for 311 Gifford
>
> Dear All,
>
> Wednesday 12:30 - 1:30 will work for me too.
>
> Jake, Bert and Sarah,
>
> Are you available?
>
> And I would prefer to meet at the site unless it's pouring rain.

Kathy

Kathy Sutherland

[redacted]

On Feb 12, 2026, at 12:06 PM, Lee, Lynn <TheresaLynn.Lee@sanjoseca.gov> wrote:

Hi Matt,

My name is Lynn Lee and I am Councilmember Mulcahy's Chief of Staff. If possible, I'd also like to attend this meeting. I've marked in red the times I'm available within what you proposed, but will default to what works best for Kathy, Sarah, and Bert.

Thanks,

Lynn Lee

Chief of Staff

Office of Councilmember Michael Mulcahy

200 E. Santa Clara Street,
18th Floor

San José, CA 95113

408.535.4906

<image001.png>

From: Matt Bernardis mattbernardis@urbancatalyst.com
Sent: Thursday, February 12, 2026 11:18 AM
To: Sutherland, Kathy [redacted]
Cc: Joshua Burroughs jburroughs@urbancatalyst.com ; Mike Walsh mwalsh@urbancatalyst.com ; Bert Weaver [redacted] Sarah Springer sarahlspringer@outlook.com ; Jake Lavin [redacted] ; Mulcahy, Michael Michael.Mulcahy@sanjoseca.gov ; Lee, Lynn TheresaLynn.Lee@sanjoseca.gov
Subject: Re: Proposed new use for 311 Gifford

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You don't often get email from mattbernardis@urbancatalyst.com. Learn why this is important

Hi Kathy would you be free to meet at any of the below times next week. We can meet outside the site or even at the hotel if that works better.

Tuesday - 10:00-11:30; 10:00-11:00am

Wednesday 11:45-2:00; 12:30-1:30pm

Thursday 12:00-2:00; Lynn Not Available

thanks,



Matt Bernardis
Senior Project Manager
[redacted] |
mattbernardis@urbancatalyst com
URBANCATALYST.COM
[redacted]

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On Tue, Feb 3, 2026 at 7:57 AM kathy sutherland [redacted] > wrote:

> Good morning Josh,
>
> I noticed a new sign on the corner of Gifford and San Carlos.
>
> Never heard back from you about your new proposal.
>
> And we haven't been asked to comment or review.
>
> When will we hear about the new project?
>
> From what I've heard, it is a very different project and will have a tremendous impact on the neighborhood.
>
> This lack of proactive outreach is extremely concerning.
>
> Kathy Sutherland
>
> [redacted]
>
> > On Nov 3, 2025, at 10:53 AM, Joshua Burroughs <jburroughs@urbancatalyst.com> wrote:

Hi Kathy,

Thanks for your note and hope you had a fun and safe Halloween weekend.

Did not mean to catch you off guard - we have a submittal in, but waiting to hear back from city planning on their thoughts and feedback - we typically receive a 30-day letter but can take 45-60 days sometimes.

I'll defer to the council office as far as timing for a meeting - probably makes sense to meet after we've received the comments back from planning department on the intake.

Talk soon,

-Josh

~WRD0000.jpg

Joshua Burroughs
PARTNER
jburroughs@urbancatalyst.com
URBANCATALYST.COM

[redacted]

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memorandum, certain organizational documents, subscription agreement, and/or certain other information. A copy of the private placement memorandum, and other related investment documents, will be made available to investors upon request. Only accredited investors as defined in Rule 501 of Regulation D can invest in Urban Catalyst products. Past performance is not a guarantee of future results. Investments in securities are speculative, involve a high degree of risk, and are not suitable for all investors. Potential investors should consult their own legal and tax professionals prior to making investment decisions. This message, and its attachments, cannot be guaranteed to be secure or free of errors or viruses.

On Sun, Nov 2, 2025 at 8:30 AM kathy sutherland [redacted] wrote:

> Good morning Josh,
> I saw an article that Urban Catalyst would like to develop housing at the corner of Gifford and San Carlos instead of assisted living. This proposed change is very

concerning.
And hearing it second hand is also unsettling.
We need to hear from you, about your new proposal and to discuss the impacts on the existing residents.
Please let us know when you can meet.
Thank you,
Kathy

Kathy Sutherland
[redacted]

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June 24, 2026

Dear Councilmember Mulcahy,

In your email sent to Jake Lavin and me, you stated that you will not be advocating for any changes to the design proposed by Urban Catalyst for the development on the corner of Gifford Ave. and W. San Carlos St. For Delmas Park, this is extremely disappointing. At the community meeting, UC flippantly let us know that this is simply a mirror image of their project on Josefa St. But Josefa and Gifford are extremely different streets and what works for one doesn't work for the other.

We worked for years with City Planning Staff to create clear design guidelines so our neighborhood would be able to enthusiastically welcome new, dense development. This block of Gifford has the largest number of original homes with long term homeowners and renters in Downtown West. Any development proposal should respect the existing homes. We expected that our years of work with Planning Staff to create design standards would be supported by our councilmember. That is why we participated in the process with Planning Staff and volunteered countless hours to create and receive council approval of design guidelines.

In your email you stated that you would focus on the course of construction and that you will help us mitigate construction impacts. Here are our concerns.

- Construction hours should be 7am to 5pm, Monday through Friday for site and building exterior work. Exterior construction noise is extremely loud and given the proximity of the existing 100+ year homes, we need a mental break from the impact. Once the exterior is complete, construction hours can be extended to 7am to 7pm every day but Sunday.

- The developer will fund an independent assessment by a licensed property inspector of each home (if requested) for cracks to walls and foundations prior to construction. The property owner will hold the report. At the community meeting, UC said they would send in someone to video each home. UC using recording equipment inside any private residence is completely inappropriate.

- Excessive noise levels will impact existing homes on the 300 block of Gifford Avenue. UC should replace existing single-paned windows for interested property owners.

- Cement pour work is extremely loud and disruptive, impedes access to our homes, and is not appropriate for multiple hours and days in front of our homes. This work will only be done from W. San Carlos St.

- Construction vehicles with beepers will be only allowed on W. San Carlos St.

- To greatly reduce noise impacts, UC should consider constructing a sound barrier along Gifford Avenue at the height of the existing homes. This barrier could be attached to the protected sidewalk.

- This block of Gifford Avenue is currently experiencing numerous sewer and water line failures. The proposed project requires excavation, ground disturbance and vibration which will certainly affect the existing sewer and water lines. Our street is 120+ years old. UC needs to cover the cost to property owners to repair any sewer or water line failure from the beginning of construction to 2 years after certificate of occupancy.

- Trash receptacles for the new development will not be placed along Gifford Avenue. They will be located closest to W. San Carlos St. Rats and roaches are inevitable, and the receptacles need to be located as far away from the existing homes as possible.

- There are three existing affordable developments within 2 blocks of this site with 363 affordable units. They are the Pensione Esperanza, with 110 SRO units, Delmas Park Apartments with 123 Family units, and Solaire with 64 affordable units and 64 Permanent Supportive Housing units for those experiencing homelessness. The Delmas Park neighborhood supported these developments. If existing design guidelines can be ignored due to the density bonus of 14 affordable units out of 276, we would like Council to not accept these affordable units. We are fully on record supporting both affordable and dense developments. And we are being told these paltry 14 additional units are a justification for the City to compromise on great design.

Once one developer is allowed to build below approved design guidelines, all others will expect the same. W. San Carlos St. is an important, very visible corridor to downtown San Jose. We should hold developers to design standards that honor this. The City Council should honor the hundreds of hours of work done by Planning Staff and community members to create a complete vision for the future of the city we love.

What is particularly troubling is that the City is being asked not only to set aside adopted design standards, but also to provide financial assistance and fee reductions to support this project. Public assistance has historically carried additional conditions to ensure accountability and protect the public interest. Public subsidies and fee reductions should improve the project, not simply increase the value of the land. Any public assistance should remain tied to the project. If there is any material change in ownership, control, financial sponsorship, development rights, or management of the project, the City should require community meetings and City Council review before those benefits are transferred to another party.

We would like to meet with you to further discuss this issue. This letter has been sent to residents of the 300 block of Gifford Avenue and respective property owners.

Thank you,

Kathy Sutherland
Laura Winter
Bert Weaver
Sarah Springer

Cc: Lynn Lee
Rosalynn Hughey
Chris Burton
Jacqueline Guerrero
Ruth Cueto
Jared Ferguson
Mayor and Council
Matt Bernardis
Mike Walsh

July 3, 2026

Director of Planning, Building and Code Enforcement
Director's Hearing Officer, City of San José
c/o Jacqueline Guerrero, Project Manager
200 East Santa Clara Street, San José, CA 95113

Re: File Nos. H25-039 & ER25-225 — "The Gifford," southwest corner of West San Carlos Street and Gifford Avenue (462–470 W. San Carlos St. / 313–329 Gifford Ave.; APNs 264-20-082, -083, -084, -085, -086, -087, and -088)

Dear Director Burton:

We submit these comments on behalf of the Stakeholders + Neighborhoods Initiative (S+NI) and represent the residents and property owners of the Delmas Park neighborhood, in particular the 300 block of Gifford Avenue, which contains the largest concentration of century-old original homes and long-term homeowners and renters in the Downtown West area.

Our neighborhood is not opposed to growth. We have welcomed dense, transit-oriented, and affordable development, and we have the record to prove it: the Pensione Esperanza (110 SRO units), the Delmas Apartments (123 family units), and Solaire (64 affordable units and 64 permanent supportive housing units) are all within two blocks of this site, and our neighborhood supported them. We want to be able to welcome this project, too.
What we cannot support is the applicant's request to waive the very design standards our neighborhood spent years helping to write and that the City Council has repeatedly adopted. Urban Catalyst proposes an eight-story building that, by the City's own analysis, is "a building with no setbacks" at the shared property line with our homes. They have asked the City to waive the neighborhood-transition standard and three additional Downtown design standards so that they can construct a monolithic 89-foot interface with existing single-family homes. For the reasons below, we respectfully urge the City to deny those waivers as currently applied and deny the Site Development Permit for the project as currently designed.

The Director Must Be Able to Make the Required Findings
Government Code section 65915(e) requires substantial evidence that each requested development standard would physically preclude construction of the project at the permitted density. The current record contains assertions that compliance would reduce units or design efficiency, but does not include architectural studies, engineering analyses,

alternative building envelope studies, or comparable evidence demonstrating that compliance is physically impossible. Assertions alone do not constitute substantial evidence.

SB 330 and AB 130 Exemption

The applicant's assertion of a statutory CEQA exemption under Assembly Bill 130 is legally invalid due to unresolved environmental hazards. Pursuant to the City's initial environmental review a housing project on a Cortese-listed hazardous materials site is disqualified from an AB 130 exemption unless the applicant provides an official agency determination that the site is currently suitable for residential use.

The record explicitly negates this suitability. An official directive from the County of Santa Clara Department of Environmental Health dated January 5, 2026 establishes that the project site (spanning APNs 264-20-082, -083, -084, -085, -086, -087, and -088) contains shallow soil with "lead-impacted" concentrations that actively exceed the Regional Water Quality Control Board's residential environmental screening levels. The County has only granted a conditional extension to execute a shallow soil removal plan through December 31, 2026, with a final remediation Completion Report not due until April 30, 2027.

The official GeoTracker record for 470 W. San Carlos lists the case status as "Under Investigation" and states "No Remedial Actions Entered." Because the site remains an un-remediated hazard and completely lacks a residential suitability sign-off, the Director cannot legally make the findings required to grant an AB 130 exemption. The project must be denied this statutory shortcut and be subjected to full CEQA environmental review.

Density Bonus Waivers

Each requested waiver should be analyzed independently. The record should identify the evidence supporting each statutory finding rather than treating all requested waivers collectively. Based on the current record, the applicant has not demonstrated entitlement to the requested waivers under Government Code section 65915(e).

The project abandons a step-back principle repeated throughout the DSAP, the General Plan, and the Downtown Design Guidelines.

The parcel sits in the Downtown/Southern Zone of the Diridon Station Area Plan (DSAP), directly abutting parcels designated Residential Neighborhood (RN) in the General Plan. This project interface falls within the Lot Line Stepback Plane (Figure 2-4-7), which was written into the Amended DSAP's neighborhood-transition standard to protect against the type of 89-foot, monolithic interface the developer proposes.



Figure 2-4-7: Stepback Plane Locations

As restated in the City's own review letter, the standard (Figure 2-4-8) requires that the developer:

> *"Provide building stepbacks from rear shared property lines within a stepback plane of 75 degrees from horizontal. For building frontage along a rear shared property line, start the stepback plane from the intersection of the rear setback line at a height of 35 feet... Each building stepback must be a minimum of six feet in depth... Provide a minimum 15 foot landscaped buffer for interior lot lines affected by stepback planes."* — Amended DSAP, Building Height Transition standards (adopted May 25, 2021)[1]

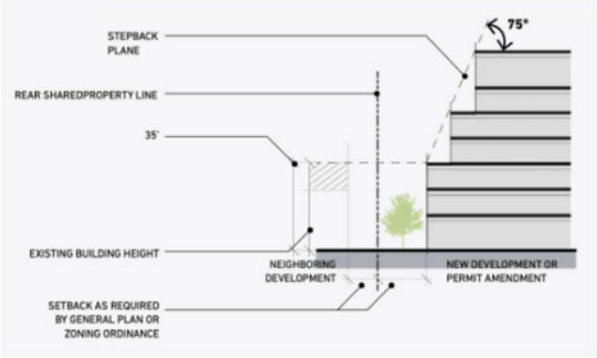


Figure 2-4-8a: Lot Line Stepback Plan Diagram

The project as proposed provides none of this. The applicant's plan set proposes a flat wall rising to over 89 feet with a zero-foot setback along the shared eastern property line, and the applicant concedes that "compliance with the stepback plane would require reducing the building footprint on the east side for multiple floors above 35 feet." The City's staff analysis is equally direct: "Currently the project proposal consists of a building with no setbacks, not consistent with the requirement." There is no dispute that the standard applies and that the building, as proposed, does not meet it.[2]



The standards the applicant seeks to waive are not isolated technicalities. The requirement that tall new development step down in height, bulk, and scale where it meets

[1] Amended Diridon Station Area Plan, neighborhood building height transition standards (Figure 2-4-7/2-4-8), adopted by the City Council on May 25, 2021, as restated in City of San José review letter, File Nos. H25-039 & ER25-225 (Feb. 27, 2026), p. 2.

[2] Applicant plan set, "The Gifford" (File H25-039), Project Information sheet AP0.00 (Jan. 30, 2026); City of San José review letter (Feb. 27, 2026), p. 2 (staff analysis).

an existing lower-scale neighborhood is a principle the City has stated and re-stated at every level of its planning framework — in the General Plan, in the Diridon Station Area Plan, and in the Downtown Design Guidelines. The Envision San José 2040 General Plan (amended August 29, 2025) states it directly in Policy CD-6.3:

> *"New development within the Downtown Growth Area that is adjacent to existing neighborhoods that are planned for lower intensity development should provide transitions in height, bulk and scale to ensure that the development is compatible with and respects the character of these neighborhoods, as they are designated in the General Plan."* — Envision San José 2040 General Plan, Policy CD-6.3[3]

And Policy CD-4.5 prescribes the very tools the applicant now asks the City to discard:

> *"For new development in transition areas between identified Growth Areas and non-growth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, viewshed, or other land use compatibility concerns."* — Envision San José 2040 General Plan, Policy CD-4.5[4]

These are not the only expressions of the principle. The General Plan repeats it in Policy CD-4.9 (new development must be "consistent or complementary with the surrounding neighborhood fabric") and Policy CD-6.11 (the City is to "maintain Downtown design guidelines and policies adopted by the City"); the DSAP carries it into a specific, measurable 75-degree step-back plane and landscaped buffer; and the Downtown Design Guidelines carry it into the podium- and skyline-massing standards the applicant also seeks to waive. When a single requirement recurs this consistently across a city's plans, it is not incidental — it is a deliberate, load-bearing policy adopted precisely to govern situations like this one.

Beyond the stepback, the applicant seeks to waive multiple Downtown Design Guidelines and Standards (adopted April 23, 2019) that also shape how large the building feels from the street and from our yards — including Section 4.3.1 (breaking podium massing wider than 100 feet into articulated masses no wider than 80 feet), Section 4.3.2(c) (stepbacks or notches in long skyline facades to reduce apparent bulk), and Section 5.3.3 (ground-floor residential elevation). Each of these standards exists to reduce perceived mass and improve the pedestrian and neighbor experience. Waiving them one after another, in addition to the transition step-back, allows the monolithic interface the standards were written to prevent. Waiving multiple Downtown Design Guidelines and Standards of such compounding significance for the sake of just 14 VLI units is simply unacceptable.
The City invested years of staff work, extensive community engagement, and public expense to develop and adopt these guidelines. Having made that investment, the City

[3] Envision San José 2040 General Plan (amended Aug. 29, 2025), Policy CD-6.3.
[4] Envision San José 2040 General Plan (amended Aug. 29, 2025), Policy CD-4.5.

should protect and defend them — not set them aside, one waiver at a time, for a single project. Granting these waivers would not merely permit a taller wall on Gifford Avenue; it would signal that a principle the City spent more than a decade building into its plans can be traded away at a staff-level hearing.

At the community meeting, the applicant dismissed our concerns by calling this building a mirror image of its Josefa Street project. But these plans exist so that each site is judged on its own context; Gifford is not Josefa, and the City's own guidelines require a design that responds to this block's low-rise, historic character. And the commitment reflected in these plans is a policy commitment, not a financial one; the applicant's economics do not justify unwinding it.

State law does not compel the City to grant the step-back waiver.

The applicant seeks to erase the step-back through a waiver under the State Density Bonus Law (Government Code § 65915), based on setting aside five percent of units (about 14 units) for very-low-income households — the minimum the statute recognizes. That set-aside entitles the project to one concession and to waivers of development standards, yet the applicant's own density bonus application requests no concession at all and instead places every deviation, including the neighborhood step-back, in the waiver category. A waiver, however, is available on one condition only: where the development standard would "have the effect of physically precluding the construction of" the project at the permitted density (Gov. Code § 65915(e)). To physically preclude means that the standard makes the project impossible to build, not merely smaller, less efficient, or less profitable. The statute confines the question to physical possibility; unit count and economics are not part of it.[5] On that test, the waiver fails on the applicant's own numbers. This building is over 89 feet tall on a site with a 110-foot height limit — roughly 21 feet of allowable height goes unused — so the upper floors can be stepped back from our homes and that floor area recovered within the permitted envelope. The project can plainly be built with the step-back; the standard does not physically preclude anything. The burden of proof is the applicant's, not the neighborhood's, and on this record it cannot be carried.[6]
Tellingly, the application does not even attempt the required showing. None of the guidelines the applicant seeks to waive precludes this project from being built. They are basic planning principles — orderly transitions in mass and scale between a high-rise and the low-rise homes beside it. Each can be satisfied through ordinary design changes within the building's permitted envelope.

Instead, the application justifies every one of its requested waivers by the wrong measure entirely — lost units and design efficiency. The developer argues full compliance with the step-back would "significantly reduce unit sizes on floors 6 through 8, resulting in the loss of units"; the required skyline-massing notch would cause "the loss of at least 6 units";

[5] Cal. Gov. Code § 65915(e). At five percent very-low-income, the project qualifies for one incentive/concession; the City bears the burden of proof for denial of a concession or incentive. Cal. Gov. Code § 65915(d).

[6] Building height per City review letter (Feb. 27, 2026), p. 2; 110-foot height limit per DSAP Building Heights (Figure 3-2-1).

and the loading-clearance and ground-floor-elevation standards would reduce "design efficiency." Fewer or smaller units is not physical impossibility; it is a design outcome the applicant can avoid by redesigning within the 110-foot envelope it has left unused.For the same reason, the applicant's separate suggestion that SB 330 (Gov. Code § 66300) bars the stepback is misplaced. That statute measures a site's capacity against what was allowed on January 1, 2018, when the 2014 DSAP governed and contained no such height increase. The 2021 amendment raised heights in this area and added the stepback together. The developer's application was not deemed complete until March 2026, five years after the amended standard was fully in effect.

Design standards were built through years of community engagement.

The Diridon Station Area design standards the applicant seeks to waive are the product of one of the most extensive community-engagement efforts in the City's recent history. Beginning in January 2018, the City Council appointed a 38-organization Station Area Advisory Group (SAAG) that met regularly over a multi-year period. The City conducted successive formal rounds of public outreach in fall 2019, spring 2020, and fall 2020. It partnered with seven community-based organizations to reach residents directly. And, most directly relevant here, it held a dedicated community meeting on August 31, 2021, specifically to shape the neighborhood building-transition and buffer measures that this project now seeks to avoid. Our neighbors participated in that process in good faith, precisely so that new development could be welcomed on terms that respect the existing homes. Waiving these standards for this project would nullify that public investment.[7]
The General Plan also asks developers to continue that engagement at the project stage — before, not at, the hearing. Policy IP-14.6 directs the City to:

> *"Encourage project developers to consult with neighborhood groups early in the development review process to resolve potential differences before the public hearing process begins."* — Envision San José 2040 General Plan, Policy IP-14.6[8]

The General Plan further provides that the City shall "ensure that community members have the opportunity to provide input on the design of… private development within their community" (Policy VN-2.3), and that its engagement process "seeks to resolve community concerns in advance of a public hearing" and provides "early engagement when community members may have the greatest ability to impact outcomes" (Policy CE-1.7). That did not happen here. Rather than engage our design concerns, the applicant told us the building is a settled, mirror-image design. We ask the City to direct genuine, good-faith consultation with the neighborhood on substantive design changes occur before this permit advances.[9]

The Envision San José 2040 General Plan that underpins these design standards was itself the product of a four-year public process (2007–2011): a 37-member, Council-appointed

[7] Diridon Station Area Plan (first adopted by the City Council on June 17, 2014; as amended May 25, 2021).
[8] Envision San José 2040 General Plan, Policy IP-14.6.
[9] Envision San José 2040 General Plan (amended Aug. 29, 2025), Policies VN-2.3 and CE-1.7.

community Task Force that met 51 times, more than 125 outreach meetings, and over 5,000 community participants, before the City Council adopted the Plan in 2011. Waiving an adopted guideline for a single development is therefore not a routine administrative step. Rather, it overrides years of deliberate, community-based policy-making, and sets a precedent every future applicant may invoke. Such waivers should not be granted without meaningful concession from the developers. The 14 very-low-income units the developer is proposing, the statutory minimum, fails to qualify. If the price of these standards is this low, every future developer will expect the same, and the standards, meant to enhance West San Carlos Street as a prominent gateway to Downtown San José, will be rendered ineffectual. The City can, and should, have both the affordable housing and a building that respects the vision for this corridor and the homes beside it.

Refuse and service functions must be located away from our homes, as the design standards require.

The proposed placement of the building's trash and service functions is a major concern for existing residents and homeowners. Locating refuse enclosures along Gifford Avenue, directly against existing homes, invites odor, rodents, and noise at the most sensitive edge of the site. The design standards already address this. Downtown Design Guidelines Section 3.5.2 directs that, "for a development with multiple frontages, place service entries on a separate frontage from the primary pedestrian and bicycle entrance," and provides that trash and recycling be located "within the building or in an outdoor trash enclosure," with the express aim of keeping service functions "further from adjacent buildings." General Plan Policy CD-1.18 likewise directs placement of "loading docks and other utility uses within parking structures or at other locations that minimize their visibility." The City recently applied exactly this approach to the applicant's sister project, conditioning the trash enclosure to be located inside the building and screened from adjacent public space. We ask that the same be required here: locate all refuse, loading, and service functions inside the building or at the West San Carlos Street end of the site, screened, and away from the Gifford Avenue residential frontage.[10]

Requested action

For the Director's Hearing of July 15, 2026, S+NI respectfully requests that the City:

1. Deny the requested waiver of the DSAP neighborhood step-back standard, absent a demonstration, which has not been made, that the standard physically precludes the project under Government Code § 65915(e).
2. Deny or decline the related waivers of Downtown Design Guidelines Sections 4.3.1, 4.3.2(c), and 5.3.3, which reduce the building's apparent mass at the neighborhood edge.

[10] San José Downtown Design Guidelines and Standards (Apr. 23, 2019), § 3.5.2 (Service Entrance Location); Envision 2040 General Plan, Policy CD-1.18; see City conditions of approval for the applicant's Josefa Street ("Madera") project requiring the trash enclosure within the building and screened from adjacent public space.

3. Condition the permit to locate all refuse, loading, and service functions inside the building or at the West San Carlos Street end of the site, screened and away from Gifford Avenue, consistent with DDG Section 3.5.2 and General Plan Policy CD-1.18.
4. Require the applicant to conduct genuine, early consultation with the neighborhood on the building's design, consistent with General Plan Policies IP-14.6, VN-2.3, and CE-1.7, before the permit advances.
5. Find the project, as currently proposed, inconsistent with General Plan Policies CD-6.3, CD-4.5, CD-4.9, and CD-6.11 until it is revised to provide the required transitions in height, bulk, and scale.
6. Deny the statutory CEQA exemption under Assembly Bill 130 because the project site contains active lead-impacted soil exceeding residential screening levels and completely lacks an official agency closure letter or suitability sign-off as required under Government Code Section 21080.66.

We would welcome the opportunity to meet with staff and the applicant to resolve these issues before the hearing. This letter has been shared with the residents and property owners of the 300 block of Gifford Avenue.

In short: the affordable units are welcome, but they are far insufficient to warrant the City setting aside long debated neighborhood-transition standards, design guidelines, or General Plan policies that protect our community. Laws, statutes, and guidelines should be enforced uniformly, lest we create dangerous precedent in our neighborhoods that renders all of the above either unenforceable or unrecognizable.

Respectfully submitted,

Kathy Sutherland, Laura Winter, Bert Weaver and Sarah Springer
On behalf of the Stakeholders + Neighborhoods Initiative (S+NI)

Cc: Mayor and Council
City Manager Jennifer Maguire
PBCE Director Chris Burton
PBCE Division Manager, John Tu
Office of the City Attorney, Daniel Zazuetta,
Matt Bernardis, Urban Catalyst
Mike Walsh, Urban Catalyst
Residents and property owners of the 300 block of Gifford Avenue

July 13, 2026

VIA ELECTRONIC MAIL

Christopher Burton, Director
Jerad Ferguson, Deputy Director / Hearing Officer
Jacqueline Guerrero, Project Manager
Department of Planning, Building and Code Enforcement
City of San José
200 East Santa Clara Street
San José, California 95113

Re: Comment and Objection — Site Development Permit for "The Gifford" / Delmas Senior Living

File Nos. H25-039 & ER25-225 (Draft Permit; Director's Hearing set for July 15, 2026)
Location: Southwest corner of West San Carlos Street and Gifford Avenue
(462–470 West San Carlos Street / 321–329 Gifford Avenue; APN 264-20-133)
Applicant: Urban Catalyst (Matt Bernardis) | Owner: Delmas Senior PropCo LLC

Dear Director Burton, Hearing Officer Ferguson, and Ms. Guerrero:

I. Introduction and Statement of Interest

Stakeholders + Neighborhoods Initiative ("S+NI") has concerns regarding the above-referenced Site Development Permit and related environmental clearance for the eight-story, 276-unit residential project known in the record both as "The Gifford" and as the "Delmas Senior Living" site (the "Project"). We respectfully request that this letter, together with all documents it references, be entered into and made part of the administrative record for the Director's Hearing and for any subsequent appeal to the City Council under San José Municipal Code ("SJMC") Chapter 20.100.

At the outset, we wish to be clear about what this letter is and is not. S+NI supports the production of infill housing, including affordable housing, in the Diridon Station Area and in downtown San José generally. This location—a previously developed, transit-proximate infill parcel—is an appropriate place for a substantial residential building, and nothing in this letter should be read as opposition to housing, to density, or to the use of the State Density Bonus Law to facilitate it. Our concerns are narrower and strictly legal: whether the City has complied with the California Environmental Quality Act ("CEQA") and the State Density Bonus Law; whether the findings the City must make are supported by substantial evidence in the record; and whether the administrative record, as presently constituted, adequately supports the requested approvals. On several points we conclude the City's approach is legally sound, and we say so. On the principal points addressed below, however, the record before the Director does not yet support the determinations the Draft Permit would make, and approval on the current record would be vulnerable to reversal.

We raise these issues now, before the Director's Hearing, so that they may be cured administratively and so that the City may avoid an approval that does not withstand scrutiny. To the extent they are not resolved, this letter is intended to exhaust administrative remedies and to preserve each issue for a City Council appeal and, if necessary, for judicial review. (Pub. Resources Code, § 21177; Gov. Code, § 65009.)

II. Summary of Principal Concerns

The principal deficiencies in the current record are as follows:

1. The CEQA clearance is legally deficient. The Draft Permit designates the Project "Statutorily Exempt Pursuant to Public Resources Code Section 21080.66 (Assembly Bill 130)." The Project site is an active soil-cleanup site enrolled in the Santa Clara County Site Cleanup Program with known lead contamination and no residential-suitability determination. Under the plain terms of AB 130, a site listed pursuant to Government Code section 65962.5 is ineligible unless it has been cleared for residential use. The City's own Environmental Review Division reached exactly this conclusion on December 23, 2025. The exemption determination is also internally contradictory, because the Draft Permit simultaneously imposes a full suite of CEQA mitigation measures—which a statutory exemption neither requires nor permits.

2. In the alternative, reliance on the 2020 Addendum is unsupported. The only project-specific CEQA document in the record is a December 2020 Addendum that analyzed a materially different project—a six-story senior-living facility—not the eight-story, 276-unit market-rate building now proposed. Intervening new information (the site's enrollment as a cleanup case) further undermines that document's premises.

3. The State Density Bonus findings are internally inconsistent and, in material respects, unsupported. The findings misidentify the base density, conflate concessions with waivers, grant waivers the applicant did not request, and rest the waiver analysis on the applicant's assertion that compliance "would not pencil"—an economic rationale that is not the "physically preclude" standard the statute requires.

4. Several Site Development Permit and Public Works findings and conditions are internally inconsistent or rest on unresolved items, and the record contains a number of integrity problems (conflicting addresses and parcel numbers, a citation to a non-existent memorandum, and conflicting descriptions of the very use being approved).

We address each below, with citation to the record, and we identify the specific findings the City would need to make—and the evidence it would need—to support the approval.

III. Applicable Legal Standards

The determinations at issue are governed by well-settled standards.

Findings and substantial evidence. A discretionary land-use permit must be supported by findings, and those findings must be supported by substantial evidence in the record. Findings must "bridge the analytic gap between the raw evidence and ultimate decision." (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) Conclusory findings that recite a legal standard without connecting it to evidence are inadequate. "Substantial evidence" is evidence a reasonable mind would accept as adequate to support a conclusion; it does not include argument, speculation, or unsubstantiated opinion. (CEQA Guidelines, § 15384.)

CEQA exemptions. A statutory exemption applies only if the project meets every element the Legislature prescribed; the agency bears the obligation to determine eligibility on substantial evidence before relying on the exemption. Because AB 130 is a statutory exemption codified in the Public Resources Code, it is not subject to the categorical-exemption exceptions in CEQA Guidelines section 15300.2—but by the same token it is available only where each statutory site and project criterion is satisfied.

Subsequent CEQA review. Where an EIR has been certified, an agency may proceed by addendum only if none of the conditions in CEQA Guidelines section 15162 requiring a subsequent or supplemental EIR is present—i.e., substantial project changes, changed circumstances, or new information of substantial importance. (CEQA Guidelines, §§ 15162, 15164.) The agency's decision that the earlier document remains adequate is reviewed for substantial evidence, but the earlier document must "retain some informational value" and remain relevant to the project actually approved. (*Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 951–959.)

State Density Bonus Law. Government Code section 65915 confers four distinct categories of benefit—a density increase, a limited number of incentives or concessions, an unlimited number of waivers of development standards that would "physically preclude" the project, and parking reductions. A "waiver" under subdivision (e)(1) is available only where the standard "would have the effect of physically precluding the construction of a development" at the density permitted and with the concessions granted; the local agency may decline only on a written finding, supported by substantial evidence, that the standard would not physically preclude the project or that a statutory exception applies. The published decisions construing these provisions—*Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549, and *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755—are generally protective of qualifying density-bonus projects, and we discuss their significance, and their limits, in Part V.B below.

IV. Factual and Procedural Background

The following chronology is drawn entirely from the documents in the City's file and the County's regulatory record.

Date	Event / Document in the Record
Dec. 18, 2018	City certifies the Downtown Strategy 2040 Final EIR (SCH #2003042127; Res. No. 78942).
Dec. 2020	City adopts an Initial Study/Addendum to the Downtown Strategy 2040 FEIR for the "Delmas Senior Living Project" (Files GP19-012, C19-042, CP20-019, T20-020): a six-story senior-living facility (up to 49 memory-care and 116 assisted-living units, 4 affordable), ~65–69 ft, FAR 4.72, 32 surface parking spaces, via General Plan Amendment, Rezoning, and CUP. The Addendum states the site "is not on the Cortese List."
Aug. 12, 2021	AEI Consultants' Soils Management Plan ("SMP") for lead-impacted soil is conditionally approved by Santa Clara County Environmental Health ("County EH"); the site is enrolled in the Site Cleanup Program (Case #2021-10s; GeoTracker T10000017009).
Oct. 29, 2025	Current application submitted.
Dec. 23, 2025	City Environmental Review Division (B. Telahun) memorandum concludes the Project does not qualify for AB 130 because the site is "listed on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5" and is "an active clean-up program site," and would become eligible only upon a residential-suitability closure letter.
Jan. 5, 2026	County EH (H. Hanna, PG) grants a second extension of the SMP through Dec. 31, 2026, with a Completion Report due no later than Apr. 30, 2027; describes the site's prior structures and lead-removal work still to be performed.
Feb. 27, 2026	Planning Round-2 comment letter (J. Guerrero): stepback plane "not consistent"; discusses six waivers; instructs applicant to eliminate the balcony waiver ("No need to ask for waiver"); CEQA scope of work under review; Public Works "pending."
Mar. 5, 2026	Public Works 2nd Memo (H. Lee): no detailed CEQA transportation analysis needed because the Project is "covered under the San Jose Downtown Strategy 2040 EIR," but a Local Transportation Analysis ("LTA") is required; sanitary capacity under review.
June 29, 2026	Public Works Final Memo (J. Provenzano): now states the Project "qualifies for a statutory Exemption under Assembly Bill 130 (AB 130)" and is entitled to "ministerial exemption from a CEQA transportation analysis"; the LTA requirement is dropped.
July 6, 2026	Community meeting: developer states the Project "would not pencil" if built to comply at the maximum permitted height; staff state their "hands are tied" and that they have no input; noted that the Project uses density-bonus waivers without taking bonus units.
July 15, 2026	Director's Hearing / Draft Permit approval date; environmental status listed as "Statutorily Exempt Pursuant to Public Resources Code Section 21080.66 (AB 130)."

Two features of this chronology frame everything that follows. First, the operative CEQA basis for the Project changed three times—from "ineligible for AB 130" (Environmental, December 2025), to "covered by the Downtown Strategy 2040 EIR with a required LTA" (Public Works, March 2026), to "statutorily exempt under AB 130, no transportation analysis" (Public Works and the Draft Permit, June–July 2026)—without any new closure letter, transportation study, or environmental analysis appearing in the record to support the final position. Second, the only project-specific CEQA document in the file analyzes a different building (six-story senior living) than the one the City proposes to approve (eight-story, 276-unit apartments).

V. Argument

A. The Project's CEQA Clearance Under AB 130 Is Not Supported by the Record.

1. The site is ineligible for the AB 130 statutory exemption because it is an active cleanup site listed under Government Code section 65962.5 with no residential-suitability determination.

AB 130 added Public Resources Code section 21080.66, which creates a statutory CEQA exemption for qualifying infill housing. Among its mandatory site-eligibility criteria—incorporated from the SB 35/SB 423 framework (Gov. Code, § 65913.4, subd. (a)(6))—is the requirement that the site not be a hazardous-waste site "listed pursuant to Section 65962.5 of the Government Code," or designated by the Department of Toxic Substances Control, "unless" the State Department of Public Health, the State Water Resources Control Board, the Department of Toxic Substances Control, or the local agency has determined that the site is suitable for residential use (for example, through a closure letter). This is a threshold site criterion; a project that fails it is simply not eligible for the exemption.

The record establishes, without contradiction, that the site fails this criterion:

> *"Based on the City's analysis, the proposed project does not qualify for AB130 because it is located on an active clean up program site. The project may become eligible for AB 130 if the applicant provides a closure letter … determining that the site is suitable for residential use." (City Environmental Review Division memorandum, Dec. 23, 2025.)*

That conclusion is corroborated at every turn. The State Water Resources Control Board's GeoTracker record lists "Delmas Senior Living," 470 West San Carlos Street, as an open case with the status "Under Investigation." Santa Clara County Environmental Health's letter of January 5, 2026 confirms the site is an open Site Cleanup Program case (Case #2021-10s) with lead-impacted soil requiring excavation and confirmation sampling; the County extended the Soils Management Plan only through December 31, 2026, and the Completion Report documenting the cleanup is not due until April 30, 2027. No closure letter or residential-suitability determination appears anywhere in the record.

The Draft Permit itself confirms the disqualifying condition. Standard Environmental Permit Condition Haz-1.1 provides:

> *"Prior to the issuance of any demolition or grading permit, the applicant must enter into the Santa Clara County Department of Environment Health … Site Cleanup Program … to obtain regulatory oversight … Any further investigation and remedial actions must be performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed residential development." (Draft Permit, Cond. 42.k.)*

A condition requiring future remediation "to make the site suitable for the proposed residential development" is an admission that, as of approval, the site is not yet suitable and has not been cleared for residential use. That is the precise circumstance in which AB 130 is unavailable. The exemption cannot be conditioned into existence: its site criteria must be satisfied at the time the exemption is invoked, not deferred to a future cleanup that will not even be documented as complete until 2027. We respectfully submit that the environmental status stated on the face of the Draft Permit—"Statutorily

Exempt Pursuant to Public Resources Code Section 21080.66"—is not supported by, and is affirmatively contradicted by, the City's own record.

2. The exemption determination is internally contradictory, because the Draft Permit imposes CEQA mitigation that a statutory exemption neither requires nor allows.

A statutory exemption means the project is not subject to CEQA at all; the agency does not analyze impacts and does not impose mitigation. Yet the Draft Permit imposes an extensive set of "Standard Environmental Permit Conditions" that are, in substance and often verbatim, CEQA mitigation measures—dust control and Tier 4 equipment (SPC AIR-1 through AIR-5), a construction health-risk assessment, biological and cultural-resources protocols (SPC BIO-3, CUL-1, CUL-2), tribal-monitoring measures (SPC TCR-2), seismic and paleontological measures (SPC GEO-1, GEO-2), construction water-quality measures (SPC HYD-1), noise and vibration measures (SPC NOI-1, NOI-2, NOI-6, VIB-1), and the hazardous-materials measure (Haz-1.1). These measures track the Mitigation Monitoring and Reporting Program measures adopted for prior downtown addenda tiering off the Downtown Strategy 2040 EIR (see, e.g., the MMRP measures MM AQ-1 and MM HAZ-1.1 through 1.4 in the record).

The presence of a mitigation-monitoring regime is fundamentally incompatible with a statutory exemption. Either the Project was reviewed under CEQA—in which case it is not statutorily exempt, and the City must identify and defend the operative CEQA document—or it is statutorily exempt, in which case these mitigation measures have no CEQA foundation. The Draft Permit cannot have it both ways. The internal inconsistency is not a drafting nicety; it demonstrates that the City in fact undertook the environmental analysis characteristic of a discretionary CEQA project while simultaneously labeling the Project exempt from CEQA.

3. The record reflects an unexplained reversal of the CEQA basis.

As the chronology shows, the City's position on the Project's CEQA basis moved from "does not qualify for AB 130" (Environmental, Dec. 23, 2025), to reliance on the Downtown Strategy 2040 EIR with a required Local Transportation Analysis (Public Works, Mar. 5, 2026), to a bare assertion of AB 130 statutory exemption with no transportation analysis (Public Works, June 29, 2026; Draft Permit). The June Public Works memorandum states the Project "qualifies for a statutory Exemption under Assembly Bill 130" and is entitled to a "ministerial exemption from a CEQA transportation analysis," and the previously required LTA disappears. Nothing in the record explains this reversal, and no new closure letter, suitability determination, or transportation study appears to justify it. An agency may of course change its analysis, but its final determination must rest on substantial evidence; here the final CEQA basis contradicts the only reasoned environmental analysis in the file and is unsupported by any intervening evidence.

We note, additionally, that AB 130 is a CEQA exemption—not a general grant of ministerial approval. The Public Works statement that the Project "may be held to objective standards" and is entitled to a "ministerial exemption" appears to conflate the AB 130 CEQA exemption with the distinct objective-standards and ministerial-approval regimes of the Housing Accountability Act and SB 330. That

conflation matters, because the Project is being processed as a discretionary Site Development Permit requiring the discretionary findings discussed in Part V.C.

B. In the Alternative, Reliance on the December 2020 Addendum Is Not Supported by Substantial Evidence.

If the City intends to rely not on AB 130 but on the December 2020 Initial Study/Addendum to the Downtown Strategy 2040 FEIR (the only project-specific CEQA document in the file), that reliance presents its own problems under CEQA Guidelines sections 15162 and 15164.

1. The Addendum analyzed a materially different project. The December 2020 Addendum evaluated a six-story senior-living facility—up to 49 memory-care units, 116 assisted-living units, and four affordable units—approximately 65 to 69 feet tall, with a floor-area ratio of 4.72 and 32 surface parking spaces, entitled through a General Plan Amendment, a Rezoning, and a Conditional Use Permit. The Project now before the City is an eight-story, 276-unit general market-rate apartment building, approximately 85 to 89 feet tall, with a FAR of roughly 5.95 and 217 parking spaces (208 in a mechanical stacker), entitled through a Site Development Permit and the Density Bonus Law. These are not minor changes. The use itself is different (specialized senior/assisted-living care versus general multifamily), with materially different trip generation, parking demand, resident population, and service needs; the building is two stories and roughly 20 feet taller; the FAR and unit count are substantially greater. Under CEQA Guidelines section 15162(a)(1), such substantial changes require evaluation of whether major revisions to the prior environmental document are needed—an evaluation the record does not contain for the project actually proposed.

2. New information of substantial importance has emerged. The 2020 Addendum expressly found that "the project site is not on the Cortese List." That premise is no longer accurate. By 2021 the site had been enrolled in the County Site Cleanup Program as an active case with documented lead-impacted soil, and the City's own 2025 memorandum treats the site as "listed … pursuant to Government Code Section 65962.5" and "an active clean-up program site." Information that a site has become a listed, actively remediated cleanup case—unknown when the prior document was prepared—is precisely the kind of "new information of substantial importance" that section 15162(a)(3) requires the agency to evaluate.

3. No transportation analysis exists for the project actually proposed. The 2020 Addendum's transportation and VMT analysis was premised on senior/assisted-living use, which generates markedly fewer and different vehicle trips than 276 general apartments. Public Works recognized in March 2026 that a Local Transportation Analysis was required; that requirement was then dropped under the AB 130 theory. The result is that no transportation analysis of the 276-unit apartment use appears in the record under any theory.

4. The two theories are mutually exclusive. A project cannot simultaneously be statutorily exempt from CEQA under AB 130 (no CEQA review, no document) and approved on the basis of an EIR addendum (a CEQA document prepared for a discretionary project). The record should identify a single, coherent CEQA determination and support it with substantial evidence. Under *Friends of*

College of San Mateo Gardens, even the deferential standard governing an agency's choice to proceed by addendum requires that the earlier document retain informational value for—and remain relevant to—the project actually approved. On this record, neither theory is adequately supported.

C. The State Density Bonus Findings Are Internally Inconsistent and, in Material Respects, Unsupported.

S+NI does not dispute that the Project may qualify for the Density Bonus Law by restricting five percent of its units to very-low-income households, nor that a qualifying project is entitled to concessions and to waivers of standards that would physically preclude it. Our concern is that the density-bonus findings, as written, misstate the statutory framework, are internally inconsistent, grant relief the applicant did not request, and rest on a legal standard the statute does not authorize.

1. The findings misidentify the base density. Density-Bonus Finding 3.b states that the Downtown designation "allows residential density at 800 dwelling units per acre, equivalent to 714 base units," and that the Project "is eligible for a 20% density bonus, or 143 additional units." This conflates the theoretical maximum allowable density with the base project. Under section 65915, the affordability percentage and the resulting bonus are measured against the units in the proposed housing development. The Project proposes 276 units and restricts 14 to very-low-income households; 14 of 276 is 5.07 percent, which establishes eligibility—but a 20 percent bonus on a 276-unit base is 55 units, not 143. The figure "143 additional units" (20 percent of 714) is not the Project's density bonus; it reflects a misunderstanding of how the base is determined. We acknowledge that this error does not, by itself, defeat eligibility on the correct reading; but a finding that misstates the statutory calculation is not the reasoned, substantial-evidence finding the law requires, and it signals that the density-bonus analysis was not carefully performed.

2. The findings conflate concessions with waivers and are internally inconsistent as to number. The Draft Permit states that the applicant "qualifies for one incentives/concessions" and "did not request an incentive," then states that "[t]he project qualifies for unlimited waivers" and "has requested fourteen waivers," and then lists five (stepback plane, skyline-level massing, balconies, ground-floor elevation, podium-level massing). The Facts and Findings section, in turn, describes "five waivers." and the five items actually listed cannot all be correct. Because concessions (limited in number, evaluated for cost reduction under subdivision (d)) and waivers (unlimited, evaluated for physical preclusion under subdivision (e)) are governed by different standards, the record must identify with precision how many of each is requested and the statutory basis for each. It does not.

3. The Draft Permit grants waivers the applicant did not request, and recharacterizes the requests the applicant actually made. The applicant's own plan sheet (AP0.00, "Density Bonus Waivers") tells a different story than the findings. On that sheet the applicant:

- requests relief from the **stepback plane** not under the Density Bonus Law, but under SB 330 / the Housing Crisis Act (Gov. Code, § 66300, subd. (b)(1)(A)), on the theory that the DSAP stepback standard (Figure 2-4-7) was adopted May 25, 2021—after the January 1, 2018 baseline—and cannot be applied to reduce housing intensity;

- requests the **skyline-level massing** and **ground-floor elevation** deviations as design-guideline exceptions under Downtown Design Guidelines section 1.4 (its "Track 1 / Track 2" findings), not as Density Bonus Law waivers; and
- marks the **loading-zone height**, **balconies**, and **podium-level massing** items "N/A"—that is, not requested at all.

Notwithstanding, the Draft Permit grants Density Bonus Law section 65915(e) waivers for balconies and podium-level massing—items the applicant expressly did not request—and recharacterizes the SB 330 stepback request and the Design-Guideline exception requests as Density Bonus waivers. Granting a statutory waiver that was never requested, and on a legal basis different from the one the applicant invoked, is not supported by the record. At a minimum, the City must reconcile which mechanism applies to each deviation and make findings appropriate to that mechanism.

4. The waiver findings apply the wrong legal standard and lack substantial evidence of physical preclusion. A section 65915(e) waiver is available only where the development standard "would have the effect of physically precluding the construction of" the project at the permitted density with the granted concessions. The Draft Permit's waiver analyses rest entirely on conclusory assertions that compliance would cause the "loss of" a stated number of units (eight, six, four, one, one). The contemporaneous record shows that the driving rationale was not physical preclusion but economics. According to the July 6, 2026 community-meeting record, the developer stated that the Project "would not pencil" if it were built to comply at the maximum permitted height, and "keeps saying doesn't pencil instead of physically preclude development," while "City staff did not do any analysis of this issue, [and] just accepted [the] developer statement that they might lose 1-8 units."

Economic infeasibility is not the section 65915(e) standard. Indeed, the City's own Downtown Design Guidelines section 1.4 exception process—on which the applicant's plan sheet relies for two of these deviations—expressly requires that the qualifying constraint be one "not caused by financial or economic constraints considerations." A record built on "doesn't pencil," unaccompanied by any independent City analysis, does not establish physical preclusion under either the Density Bonus Law or the Design Guidelines. The point is underscored by an undisputed fact the findings do not confront: the Project is proposed at 276 units on a site the City states allows a far higher density (Finding 3.a), and at approximately 85–89 feet on a site with a 110-foot limit. On this record, the City has not shown that any standard would "physically preclude" the development at the density permitted; it has shown only that compliance might reduce the applicant's preferred unit yield.

5. The governing case law, fairly applied, does not close this gap. We recognize—and want the record to reflect our recognition—that the published Density Bonus Law decisions are protective of qualifying projects. *Wollmer*, *Schreiber*, and *Bankers Hill 150* establish that a qualifying density-bonus applicant is entitled to waivers of standards that would physically preclude the project as designed; that the City generally may not compel a redesign (for example, to remove an amenity such as a courtyard) as a condition of compliance; that requested incentives are presumed to yield cost reductions; and that the City bears the burden to justify denial. We do not contend, and the City need not find, that the

applicant must strip the building of features or redesign it. But those decisions presuppose two things absent here: first, a project that properly invokes the Density Bonus Law waiver mechanism for the specific standards at issue (not SB 330 or a Design-Guideline exception); and second, a record establishing—or at least a good-faith City determination on substantial evidence—that the standard would "physically preclude" the project as designed. Those cases confirm the strength of a properly documented density-bonus request; they do not excuse the City from identifying the correct mechanism and making a finding supported by substantial evidence, rather than adopting the applicant's economic conclusion without analysis. The cure is not to demand a smaller or redesigned building; it is to build a record that supports the waivers the City actually grants.

6. Context. Finally, for the record: the same 14 very-low-income units that qualify the Project for the density bonus also satisfy the City's Inclusionary Housing Ordinance obligation (Draft Permit, Cond. 37, providing 14 on-site units plus a $2,550,991.80 in-lieu fee). Counting inclusionary units toward density-bonus eligibility is permissible under section 65915, and we do not assert otherwise. We note it only because the Project takes no bonus units at all (Finding 3.b), which means the requested waivers are not needed to accommodate any additional density—a fact that bears directly on whether any standard truly "physically precludes" the development "at the density permitted."

D. Several Site Development Permit Findings Are Not Supported by Substantial Evidence.

Approval of a Site Development Permit requires the findings specified in SJMC section 20.100.630, including that the Project, "as approved," conforms to the Zoning Code and applicable design standards. Several of these findings are contradicted by the Draft Permit's own text and conditions.

1. The design-conformance findings are contradicted by unresolved revisions. Finding 3.a.v recites conformance with the Downtown Design Guidelines, yet the same finding flags non-compliance and directs the applicant to change the design—e.g., that the blue stucco "emphasizes a strong vertical aspect … rather than the overall building form … Please revise it to better align with the standard" (Guidelines § 4.4.1), and that the pedestrian-level materials must be corrected (Guidelines § 4.4.3). Condition 7 then requires the applicant, after approval, to file a permit adjustment "to add an additional balcony column on Gifford Avenue and change the balcony color/face to a wood-like grain." A finding that the Project "as approved" conforms to the design standards cannot rest on plans the City simultaneously directs the applicant to revise; the conformance the finding recites has not yet been achieved.

2. The loading standard is not met, and the "condition" is unresolved. The Project does not satisfy the 15-foot vertical clearance required for off-street loading (SJMC § 20.90.420); the Draft Permit acknowledges the vehicle entrance is 10 feet and provides only 12 feet of clearance. The Permit "conditions" a workaround limiting the garage to Class 4–6 trucks and contemplates "an on-street loading space along West San Carlos Street via a separate Public Works permit process." That off-site loading space is not secured, and it is in tension with Public Works' own direction to "[r]evise trash management plan to avoid on-street staging for trash pick-up" (PW 2nd Memo, item 5.a). The record does not establish compliance with the loading standard.

3. Unresolved parking and description discrepancies. Planning's February 27, 2026 letter found that "the vehicle width for all stacked spaces is too narrow" for the 90-degree configuration, which requires a minimum 8-foot-6-inch width; the record does not show this was resolved. The Draft Permit also describes "underground parking" in the project description while the findings and plans show an at-grade, ground-floor parking garage—an unreconciled inconsistency in the description of what is being approved.

E. The Public Works Conditions Contain Material Internal Inconsistencies and Unresolved Items.

1. Contradictory transportation basis. As discussed in Part V.A.3, the Public Works Final Memo's AB 130 transportation basis contradicts the same division's March 2026 basis (Downtown Strategy 2040 EIR plus a required LTA) and the Environmental Division's determination, and it eliminates the previously required Local Transportation Analysis without explanation.

2. Internally inconsistent street-frontage conditions. The Final Memo directs the applicant to "construct curb, gutter, and 10' attached sidewalk with tree wells at back of curb along Gifford Avenue" (Cond. 12.b), while the very next street-tree condition directs that "[s]treet trees shall be installed in park strip on Gifford Avenue" and specifies trees "planted 20' on center in parkstrip" (Cond. 16 / 6.a). An attached sidewalk at the back of curb has no parkstrip; the two conditions cannot both be performed as written. The March 2026 memo had specified a detached sidewalk with a 4-foot parkstrip on Gifford—the configuration the street-tree condition assumes—suggesting the change to an attached sidewalk was made without conforming the related conditions.

3. Unresolved sanitary capacity. The March 2026 memo stated that Sanitary was "currently reviewing the project to determine if the current capacity is adequate," and that "upsizing of the surrounding sanitary mains" might be required. The record does not document the resolution of that review; the Final Memo simply omits it. Sewer capacity is a legitimate subject of the City's findings and should be resolved on the record before approval.

F. Record-Integrity and Procedural Deficiencies.

Individually minor, these problems collectively undermine confidence that the environmental and entitlement review was performed with the care the law requires, and several bear directly on notice and on the accuracy of the project description.

1. Conflicting addresses and parcel numbers. The record variously identifies the site as 470, 462–470, and 466 West San Carlos Street, and as 321–329, 325, and 313 Gifford Avenue, with ZIP codes given as both 95110 and 95126; the entitlement lists APN 264-20-133 while the cleanup file and 2020 Addendum use APNs 264-20-082 through -088. A clear, consistent legal description is basic to public notice, to the CEQA baseline, and to the enforceability of conditions that "run with the land."

2. A template/address error in the environmental memorandum. The AB 130 environmental memorandum describes "The Gifford project … at 1803 Bradford Way," an address unrelated to this site—an apparent template artifact that further calls into question the care of the environmental review.

3. Inconsistent description of the approved use and hours. The permit header describes extended construction hours on "Saturdays"; the project description says "Monday through Saturday"; and Finding 3.a.vi, Condition 11, and SPC NOI-1 describe normal hours "Monday through Friday" with Saturday hours limited to 9:00 a.m.–5:00 p.m. More fundamentally, the entitled use (general 276-unit apartments) differs from the "senior living facility and staff housing" described in the County cleanup file and the 2020 Addendum. The description of the very project being approved should be internally consistent.

4. The community-outreach findings and the disclaimer of discretion. Finding 3.a.iii recites a community meeting held May 4, 2026. A further community meeting occurred on July 6, 2026, at which, staff indicated to the neighbors that they were limited to request any changes to the project. That advice is difficult to reconcile with the discretionary Site Development Permit findings the City must independently make and support under SJMC section 20.100.630. A discretionary permit is not a ministerial rubber stamp, and the findings must reflect the City's own reasoned judgment on substantial evidence.

G. If AB 130 Is Pursued, Mandatory Conditions Appear to Be Missing.

Should the City persist in relying on AB 130 (notwithstanding Part V.A), the exemption carries mandatory obligations that the Draft Permit does not reflect. First, AB 130 imposes labor standards: a building more than 85 feet above grade must pay prevailing wages and use a skilled-and-trained workforce (Pub. Resources Code, § 21080.66, subd. (d); Gov. Code, § 65913.4, subd. (a)(8)). The plans state a maximum building height of 85 feet to average roof height, and the findings state 89 feet 3 inches; at or above that threshold, these labor conditions are mandatory, yet the Draft Permit imposes none. Second, AB 130 requires that tribal consultation be completed on the statutory timeline and that any resulting measures be imposed as conditions (§ 21080.66, subd. (b)); the December 2025 memorandum indicates consultation had not yet occurred, and the record should document its completion. Third, AB 130 conditions the exemption on a Phase I environmental site assessment and appropriate follow-up (§ 21080.66, subd. (c))—which, on this contaminated site, only reinforces the eligibility problem addressed in Part V.A. In short, if the Project is treated as AB 130-exempt, the Permit is missing mandatory conditions; and if those conditions are added, they confirm that the site's open cleanup status defeats eligibility in the first place.

VI. Where the City's Analysis Appears Sound

In fairness, and to assist the Director in separating the genuinely contested issues from the settled ones, we note the following points on which the City's approach appears legally sound and which we do not challenge:

- **Land-use appropriateness and General Plan/DSAP dimensional consistency.** The site is an appropriate location for substantial infill housing, and the Project's height (approximately 85–89 feet against a 110-foot DSAP limit) and floor-area ratio (approximately 5.95 against a maximum of 30) are within the applicable DSAP standards.

• **Density Bonus eligibility, correctly framed.** On the correct base (the 276-unit proposed project), the restriction of 14 units to very-low-income households satisfies the five-percent very-low-income threshold, and the Project is in principle entitled to the density bonus and to the associated concession and waiver mechanisms—provided the findings are made correctly and supported by evidence.

• **Availability of a deviation mechanism.** The City's Downtown Design Guidelines contain an established exception process (§ 1.4), and the Density Bonus Law provides waivers; one or another of these mechanisms is available for legitimate design deviations. Our objection is to the manner in which they were applied, not to their existence.

• **The environmental measures themselves.** The Standard Environmental Permit Conditions (air quality, biology, cultural and tribal resources, geology, hydrology, noise, vibration, and hazardous materials) are appropriate, substantively protective measures. Our objection is that their presence is inconsistent with a claimed statutory exemption—not that the measures are themselves objectionable. They belong in a properly supported CEQA determination.

• **Inclusionary compliance and impact fees.** The Inclusionary Housing Ordinance treatment (Cond. 37) and the Diridon Station Area and citywide impact-fee conditions appear consistent with applicable ordinances.

VII. Requested Action

S+NI respectfully requests that the Director not approve the Draft Permit on the current record, and instead continue the matter to allow the following to be addressed:

1. Adopt a single, coherent, and supported CEQA determination. Either (a) if AB 130 is pursued, place in the record a residential-suitability determination or closure letter from the appropriate agency establishing that the site satisfies Public Resources Code section 21080.66's site-eligibility criteria, and add the mandatory AB 130 conditions (labor, tribal, Phase I); or (b) prepare a subsequent or supplemental CEQA document, or a new addendum supported by substantial evidence, that analyzes the eight-story, 276-unit apartment project actually proposed and addresses the site's current cleanup status and the absence of any transportation analysis for the general-apartment use. The two theories should not both appear on the face of the approval, and mitigation measures should not be imposed under a statutory-exemption label.

2. Correct and support the Density Bonus findings. Identify the correct base density and bonus calculation; state precisely how many concessions and how many waivers are requested, and the statutory basis for each; reconcile the waivers granted with the deviations the applicant actually requested (including the SB 330 and Design-Guideline-exception theories on the applicant's own plan sheet); and, for each waiver granted, make a finding, supported by substantial evidence, that the specific development standard would physically preclude the development at the permitted density—rather than adopting the applicant's "would not pencil" economic conclusion without independent analysis.

3. Reconcile the entitlement and Public Works conditions. Resolve the loading-clearance and on-street-loading issues; reconcile the Gifford Avenue attached-sidewalk and parkstrip street-tree conditions; document the resolution of the sanitary-capacity review; and confirm the stacker stall dimensions.

4. Correct the record. Adopt a single, consistent legal description (address, ZIP, and APN); correct the environmental memorandum's address error and Finding 3.a.vi's citation to a non-existent Public Works memorandum; and reconcile the construction-hours and use descriptions.

VIII. Conclusion and Reservation of Rights

S+NI supports housing at this site. Precisely because the Project is worth doing correctly, it should be approved on a record that will withstand review. As presently constituted, the record does not support the environmental clearance stated on the face of the Draft Permit, and several of the required findings are internally inconsistent or unsupported by substantial evidence. We urge the City to address these issues administratively before approval.

This letter is submitted to ensure that each issue raised herein is part of the administrative record and to exhaust administrative remedies with respect to each such issue for purposes of any appeal to the City Council and any subsequent proceeding. (Pub. Resources Code, § 21177; Gov. Code, § 65009.) The S+NI reserves all rights, including the right to supplement these comments, to appeal any approval to the City Council, and to seek judicial review. We further request timely notice of any action on the Project, and, if a Notice of Exemption or Notice of Determination is filed, a copy of that filing.

We appreciate the Department's consideration and are available to discuss these issues before the hearing.

Respectfully submitted,

Kathy Sutherland
Laura Winter
Bert Weaver
Sarah Springer
On behalf of the Stakeholders + Neighborhoods Initiative (S+NI)

Cc:
City Manager Jennifer Maguire
Mayor and Council
Residents and property owners of the 300 block of Gifford Avenue

Outlook

Fwd: Gifford

From kathy sutherland [redacted]
Date Tue 7/21/2026 12:17 PM
To Do, Sylvia <sylvia.do@sanjoseca.gov>; Guerrero, Jacqueline <Jacqueline.Guerrero@sanjoseca.gov>
Cc Bert Weaver <bert@thesni.org>; Sarah Springer <sarah@thesni.org>; Laura Winter <laura@thesni.org>

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Dear Sylvia and Jacqueline,
I've been asked to forward this to you for the PDH tomorrow.
Kathy

Kathy Sutherland
[redacted]

Begin forwarded message:

From: Bill Rankin [redacted]
Date: July 21, 2026 at 11:57:23 AM PDT
To: kathybcsj [redacted]
Subject: Gifford

The Stakeholders + Neighborhoods Initiative (S+NI), which grew out of the Strong Neighborhoods Initiative of the 1990s, continues to play an important role in helping residents stay informed about development in and around the greater Diridon Station Area. Community voices still matter, and this is an issue that deserves attention.

Urban Catalyst is proposing a development at the corner of Gifford and San Carlos that seeks waivers from the City's adopted design guidelines and standards by using the State Density Bonus law. I support adding housing on this site, and the existing zoning already allows a building up to 110 feet tall. My concern is not about the number of homes proposed, but about how the Density Bonus is being applied.

The proposal is for an 89-foot building with 276 units, including 14 affordable units (5%). According to the applicant, the Density Bonus is needed to obtain waivers from the design standards adopted by the City in 2021 because meeting those standards would make the project financially infeasible. Yet the project is not taking

advantage of the site's full development potential. That raises important questions about whether the Density Bonus is being used in the way it was intended.

I am also concerned that the building design appears to rely on a template already being used elsewhere rather than responding to the character of this particular site. Josefa Street and Gifford Street are very different environments, and Gifford includes a number of well-maintained historic homes. Good infill development should respect the context of each neighborhood instead of assuming the same design works everywhere.

Another concern is that approval of this project has become linked to the sale of a City-owned site on North First Street, an issue that initially appeared on the June 16 Consent Calendar before being pulled for public comment. That connection deserves a full and transparent public discussion.
The project has already been postponed from the July 8 and July 15 Planning Director hearings and is now scheduled for Wednesday, July 22, at 9:00 a.m.

I hope the Planning Director will delay approval of the draft permit until these outstanding concerns have been fully addressed. If you care about thoughtful growth, neighborhood character, and following the development standards that were established through a public process, I encourage you to pay attention to this hearing and lend your support.

Bill Rankin

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Proposed Site Development Permit at 0 South 2nd Street (APN: 46722160); Community Meeting; File Nos.: H26-013 & ER26-063

Jul 30, 2026

My name is Maria Bones, and I am representing the Hammer Theatre Center and the many patrons who attend our performances and community events.

Our concern is the **impact this development may have on access to the theatre**, particularly for older adults and patrons with mobility challenges.

The existing surface lot next to the theatre provides nearby, level parking for people who use wheelchairs, walkers, canes, or who have difficulty walking longer distances. The closest alternative is the multistory parking garage at 2nd and San Carlos, but its elevator is frequently out of service. When that happens, accessible parking located on an upper floor is not truly accessible to someone who cannot use the stairs.

Removing the surface lot next door to the theatre without a practical replacement could make it significantly harder for some patrons to attend performances and community events. This is not simply a matter of convenience. It affects whether people of all ages and abilities can continue to participate in the cultural life of downtown San José.

We ask the applicant and the City to prepare a **documented accessibility and transportation plan**. That plan should identify where replacement accessible and van-accessible parking will be located, whether it will be available during theatre events, what it will cost, and how patrons will travel safely from those spaces to the Hammer.

The plan should also address safe passenger loading, paratransit access, and **conditions during construction,** including any impacts on sidewalks, curb ramps, loading areas, and accessible routes.

We also ask the City to consider a dedicated accessible passenger loading and pick up area near the theater. It should safely accommodate patrons who need additional time to enter or leave a vehicle.

There must also be a backup plan when nearby garage elevators are unavailable. Accessibility should not depend entirely on one elevator working.

We request that the Hammer Theatre Center and members of the disability community be consulted as the plans are developed, and that the resulting protections be included as **enforceable conditions of approval.**

We are asking the City to carefully evaluate its impact and ensure that all members of the public can continue to access the theatre.

–Maria Bones
Interim Executive Managing Director
Hammer Theatre Center, SJSU

YIMBY Law

2261 Market Street STE 10416

San Francisco, CA 94114

hello@yimbylaw.org

YIMBY LAW

7/13/2026

City of San Jose
Planning Division
200 E. Santa Clara St.
San Jose, Ca 95113

Re: 470 W. San Carlos Street development permit

Dear San Jose Planning Commission,

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Housing Accountability Act (HAA). This Planning Department has an obligation to abide by all relevant state housing laws when evaluating the above captioned proposal, including the HAA. Should the City fail to follow the law, YIMBY Law will not hesitate to file suit to ensure that the law is enforced.

This project will include 276 residential units of housing, including 14 units for very low income households. The site is currently vacant. We urge you to follow your staff's recommendation to grant the site development permit and find it eligible for AB 130 CEQA exemption.

AB 130 exempts all proposed developments from CEQA where they are on sites under 5 acres, dedicate at least ⅔ of their square footage to residential use and comply with all applicable general plan and zoning ordinances. As your staff have identified, it complies with the General Plan and Zoning designation, It qualifies as an urban infill site and does not fall into the definition of an environmentally sensitive area or require the destruction of historic structures. As such the project is exempt from CEQA review. The applicants have submitted an analysis detailing its qualification under AB 130's exemptions.

California Government Code § 65589.5, the Housing Accountability Act prohibits localities from denying housing development projects that are compliant with the locality's zoning ordinance or general plan at the time the application was deemed complete, unless the locality can make findings that the proposed housing development would be a threat to public health and safety. § 65589.5 (j)(3) elaborates that the receipt of a density bonus does not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not

in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,



Sonja Trauss
Executive Director
YIMBY Law

Gifford Residential

470 W San Carlos

Community Questions and Comments

URBAN CATALYST

AB130

- Address whether the 276-unit project qualifies under the AB 130 exemption. **(LETTER DATED 07/03/26)**
  - AB 130 applies
- Clarify the 500-unit AB 130 language. **(LETTER DATED 07/03/26)**
  - This language applies to mixed-use projects; Gifford is residential-only.
- Clarify hazardous material and active clean-up site status/closure letter (SMP). **(LETTER DATED 07/03/26)**
  - We are not on the Cortese List. We have an approved SMP for soil management that will be adjusted for project-specific off-haul.
- Provide the status of any closure letter or cleanup determination. **(LETTER DATED 07/03/26)**
  - No closure letter for this site is required.
- Local Transportation Analysis. **(LETTER DATED 07/03/26)**
  - No LTA is required due to the AB 130 CEQA exemption.

SDB

- State Density Bonus waivers to Downtown Design Guidelines / DSAP. **(LETTER DATED 07/03/26)**
  - State law allows design waivers to guidelines that would reduce the intensity of housing.
- Address request that Council not accept the 14 affordable units if Density Bonus waivers are used to override adopted design guidelines. **(LETTER DATED 06/24/26)**
  - UC must meet both the City's IHO policy which requires units on-site as well as State Density Bonus law which also requires on-site units (5% Very Low Income).
- Address concern that approving design below adopted guidelines will set a precedent for future W. San Carlos projects. **(LETTER DATED 07/03/26)**
- - State Density Bonus allows for waivers to design guidelines.
- Address request that public subsidies/ funds/fee reductions are tied to this project.

- This project is not funded or subsidized by the city of San Jose. We do qualify for the MHIP for fee reductions, but this is not part of the entitlement process.

City / Technical Documents

- Confirm Storm Water Pollution Prevention Plan or applicable construction stormwater plan.
  - Site is approximately 0.89 gross acres, and SWPPP related to sites over 1 acre. however, the site will maintain a Construction Erosion and Sediment Control plan. We are currently under an erosion-control monitoring plan with the City and are in compliance.
- Provide/confirm TDM and parking-control commitments.
  - TDM can be made available.

Trash / Service

- Trash/service pickup on Gifford. **(LETTER DATED 06/24/26) (LETTER DATED 07/03/26)**
  - Defer to DOT grand boulevard requirements.

Parking / Access / Traffic

- Address traffic and circulation impacts on Gifford.
  - DOT to comment.
- Address parking spillover into the neighborhood/RPP.
  - No RPP passes will be allowed.
- Use the West San Carlos address rather than the Gifford address.
  - Address changed to 470 W. San Carlos.

Public Works / Public Right-of-Way

- Provide a plan for the pedestrian crossing at Gifford and San Carlos.
  - Keystone contributed $55k, Aquino contributed $55k, and Gifford will contribute $55k; SN+I should coordinate with the Councilmember to advance implementation.
- Additional bulb-outs on Gifford.
  - PW and DOT to comment.
- Clarify Gifford sidewalk, park-strip, tree-well, and walking-area treatment along the project frontage.
  - UC proposed removing decomposed granite park strips between tree wells to create more walking area.

Design / Architecture

- Increase the setback along Gifford and/ or W San Carlos **(LETTER DATED 07/03/26)**
  - Offsetting the building, pushing it back from Gifford and towards the neighboring driveway, as requested by S+NI, would result in a significant loss of windows due to city building code requirements – these units need windows
  - A Gifford and/or W. San Carlos setback would reduce units under State Density Bonus constraints.
  - Ground floor setback impacts square footage required for building operations and setback to floors 2-8 reduces net rentable area, eliminating project feasibility.
- Add more relief, reveals, trim, recesses, or furring.
  - No change (other than additional balconies addressed below)
- Add a second bank of balconies on Gifford.
  - UC will add an additional balcony column on Gifford to break up the massing, and change the balcony color/face to a wood-like grain instead of blue. Will occur as an adjustment during construction document phase
- Recess windows.
  - No change
- Concern that checkerboard paint/stucco is not enough architectural treatment.
  - The exterior is similar to Keystone and Aquino in material quality; UC selected durable, architecturally long-lasting materials instead of cheaper alternatives.
- Confirm extent of overhead lines/poles that will be undergrounded across the project frontage.
  - UC is undergrounding overhead lines on the project side of Gifford and running new underground service to the four Gifford homes across the street (322-340 Gifford Ave.); UC will replace what it touches during these improvements.

Construction Impacts

- Provide a plan for site maintenance if the project does not proceed quickly.
  - We changed product type from senior to midrise multifamily, a proven buildable product in tough financial markets for CRE.
- Prevent the site from becoming weeds, trash, graffiti, rodents, or nuisance conditions.
  - We currently maintain the site and will continue until breaking ground.
- Construction hours for site and building exterior work should be limited to 7 AM to 5 PM, Monday through Friday, with expanded hours only after exterior work is complete **(LETTER DATED 06/24/26)**

- Construction hours as proposed allow us to finish the project faster shaving months off the schedule. UC okay with no concrete pours on Saturdays and will work with DOT/PW on grading haul route to limit impacts on Gifford.

- Address construction noise before allowed work hours.
  - Noise will be strictly supervised and controlled prior to and after construction hours.
- Independent preconstruction crack/foundation assessments by a licensed property inspector for requested homes, with reports held by property owners. **(LETTER DATED 06/24/26)**
  - Crack survey and monitoring are okay to add for the five homes across from the site along Gifford, and on the commercial property adjacent to the site. City requirements obligate a 30' radius for crack survey/ monitoring/ mitigation, so this would be in addition to city requirements.
- Replace existing single-paned windows for interested property owners due to construction-noise impacts. **(LETTER DATED 06/24/26)**
  - No change
- Address construction lighting impacts.
  - We will ensure lighting during construction does not impact residents during early morning and evening hours.
- Provide direct superintendent contact information during construction.
  - Yes, we will provide this information.
- Provide proactive construction notices.
  - Yes, we will provide this information.
- Address sidewalk closures, detours, and pedestrian safety during construction (Site Utilization Plan).
  - We will undergo a Site Utilization Plan process to ensure pedestrian and vehicular safety, approved by the City.
- Limit construction vehicles/equipment with backup beepers to W. San Carlos and keep them off Gifford. **(LETTER DATED 06/24/26)**
  - UC cannot remove truck/equipment backup beepers; they are an OSHA safety requirement.
- Concrete/cement pours should occur from W. San Carlos only, not in front of Gifford homes. **(LETTER DATED 06/24/26)**
  - Concrete truck/ pump staging will be on W. San Carlos. Advanced notice will be given. UC can agree to no concrete pours on Saturdays.

- Erect a sound wall/barrier along Gifford at the height of the existing homes. **(LETTER DATED 06/24/26)**
  - UC can agree to an 8-foot sound barrier on the Gifford frontage fence.
- Address request that UC cover property-owner costs for sewer or water line failures from construction start until two years after certificate of occupancy. **(LETTER DATED 06/24/26)**
  - UC agrees to fix laterals on the 5 homes listed above on Gifford assuming cause of failure was born by UC from Grading Process. We will however provide scoping services to document existing conditions prior to major construction activity, to survey the property owner portion of the sewer lines.

Neighborhood / Public Realm

- Beautify the San Carlos/Highway 87 underpass. NO
- Create a plan for underpass cleaning, maintenance, lighting, and basic improvements. NO
- Explore PBID/Downtown Association expansion or maintenance support for the San Carlos gateway.
  - Potential PBID expansion would likely require Gifford/Delmas W. San Carlos property owners to vote into additional assessments; the Downtown Association/PBID may be open if the math works.

Outlook

Comments on H25-039

[redacted]

Date Sat 2/21/2026 2:48 PM

To Guerrero, Jacqueline <Jacqueline.Guerrero@sanjoseca.gov>

[redacted]

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[External Email]

Hi, I?m in support of this project, as it will continue to transform the neighborhood in a positive way, bringing in more residents within walking distance of downtown. However, I oppose the proposed extended construction hours. The site adjoins residential uses and Urban Catalyst?s other multi-family residential project that?s under construction at 498 W. San Carlos St (Aquino) has frequently violated the allowable construction hours, notably on certain days starting work before 7:00 a.m. and continuing on after 7:00 p.m., such as days of extensive concrete pours - February 20, 2026 is one such date. Construction work has also occurred on recent holidays such as Martin Luther King Jr. Day and Presidents? Day. I?ve informed the Building Division about these violations, but have yet to hear back. Because of Urban Catalyst?s disregard of the allowable construction hours on their other project, I don?t have faith that they will follow the ordinance requirements for this project. There shouldn?t be extended hours when there are many existing residents nearby. Thank you for your consideration. George

[redacted]

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Allen Matkins

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Zachary D. Rego
E-mail: zrego@allenmatkins.com
Direct Dial: [redacted] File Number: 378913.00001/4900-4836-6269.3

July 18, 2026

Planning Division
City of San Jose
200 E. Santa Clara St.
Tower, 3rd Floor
San Jose, CA 95113

Re: Gifford Project – Response to S+NI Letter

Dear Planning Division:

This firm represents Urban Catalyst ("Applicant"), the applicant for the proposed residential development project ("Project") located at 313 Gifford Avenue ("Property"). This letter is in response to the Stakeholders + Neighborhoods Initiative ("SNI") letter received by your Division on July 13, 2026, raising various alleged issues with the Project application. As we explain below, SNI's assertions lack legal or factual bases and do not merit consideration by this Division. Other assertions appear to be related to clerical errors or other minor gaps in the administrative record which are easily remedied and should not substantially impact the Project, application, or approval timeline. The intent of this letter is to confirm that substantial evidence supports the City's findings that the Project 1) qualifies for a statutory exemption from the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.66 ("AB 130") and 2) the City granted the Project's Density Bonus Law ("DBL") waivers in full compliance with state law. Other assertions raised by SNI's letter will be addressed in separate filings.

I. AB 130 CEQA Exemption

The Project qualifies for the exemption from review under the California Environmental Quality Act ("CEQA") known as "AB 130." (Pub. Res. Code § 21080.66.) The alleged issues relating to the Project's qualification for AB 130 raised in the SNI letter lack legal foundation. As explained below: 1) the Property is not on the Cortese list; 2) the environmental conditions of approval ("COAs") are not inappropriate; 3) the City's CEQA exemption determination is supported by substantial evidence; 4) the Project does not exceed 85 feet when measured in compliance with AB 130; 5) the City conducted a legally defensible tribal consultation process and incorporated required COAs; and 6) Applicant fully intends to satisfy the requirement to conduct a Phase I Environmental Site Assessment ("ESA") as a condition of approval.

a. The Property is Not on the Cortese List

The SNI letter states that the Project is ineligible for AB 130 because it is an "active cleanup site listed under Government Code section 65962.5 with no residential-suitability determination." This statement is incorrect and reflects an incomplete understanding of what it actually means for a site to be listed under Government Code section 65962.5 (also known as the "Cortese List").

AB 130 is clear: a hazardous waste site that is listed on the Cortese List is ineligible for AB 130. (Pub. Res. Code § 21080.66(a)(6); Gov. Code §§ 65913.4(a)(6).) The "Cortese List" is a statewide compilation of hazardous waste sites defined according to nine statutory categories and maintained by the California Environmental Protection Agency ("CalEPA"). (Pub. Res. Code § 21080.66(a)(6); Gov. Code §§ 65913.4(a)(6), 65962.5.) If a site is not listed under one of the nine statutory categories, it is not on the Cortese List, even if it includes an active cleanup under regulatory oversight. Notably, the SNI letter does not, as it cannot, identify which of the nine statutory categories the Property is listed under.

The Property is associated with a voluntary Site Cleanup Program case administered by the Santa Clara County Department of Environmental Health ("SCCDEH"). SCCDEH opened the case in 2021 after approving Applicant's application for regulatory oversight under Health and Safety Code section 101480. The Property was listed on GeoTracker following the execution of a Remedial Action Agreement by the Applicant and SCCDEH. The Property's presence in the GeoTracker database does not mean it is on the Cortese List. Only those cases falling within the specific categories enumerated in Government Code Section 65962.5 qualify. As shown in **Attachment A**, Site Cleanup Program cases are not among the categories enumerated in Government Code section 65962.5. The Property is therefore not on the Cortese List and no residential-suitability determination is required to support the City's determination that the Project qualifies for AB 130.

To be clear, Applicant fully intends to take all necessary actions to ensure the Property is suitable for residential occupancy. Although it is not on the Cortese List, the Property is still subject to the oversight of the City and SCCDEH, which together have ample authority to ensure the Project is protective of future residents. Applicant will comply with all City-imposed COAs and is actively working with SCCDEH to ensure the Soils Management Plan is appropriate for redevelopment of the Property.

b. The City's Use of Standard Environmental COAs does not Defeat the Project's CEQA Exemption

SNI argues that the City's use of certain Standard Environmental Permit Conditions as COAs is incompatible with the Project's CEQA exemption. Applicant does not share SNI's concerns and is willing to implement the draft COAs as proposed. As SNI points out, the COAs are standard environmental permit conditions. They are not CEQA mitigation measures, and the City is

within its authority to impose such COAs on the Project. SNI's argument is legally unfounded to the extent it suggests that the presence of environmentally protective COAs somehow overcomes a clear determination that the Project qualifies for a statutory CEQA exemption.

c. The City's Determination is Supported by Substantial Evidence

SNI argues that the City's determination that the Project qualifies for AB 130 is not supported by substantial evidence. "Substantial evidence" means "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (14 Cal Code Regs § 15384(a); *see Laurel Heights Improvement Assn. v Regents of the University of California* (1988) 47 Cal.3d 376.) The City's factual determinations are given substantial deference and are presumed correct; the challenger bears the burden of proving the contrary. (*See Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1497.)

On December 23, 2025, the Planning Division Environmental Team produced a memorandum analyzing the Project's qualification for the AB 130 CEQA exemption. City staff reviewed the Project against each of the statutory criteria and determined the Project qualified for AB 130 except for the fact that it was "included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5" since it was an active clean-up program site. Applicant responded to this memorandum in a letter dated January 23, 2026, explaining that the active clean-up program site did not disqualify the Project from AB 130, and because the memorandum did not identify any other disqualifying factors, the Project qualified for AB 130. Therefore, the Environmental Team's memorandum, Applicant's January 23, 2026 letter, and this letter, all constitute substantial evidence supporting the City's determination that the Project qualifies for AB 130. It is irrelevant that Staff changed its position after receiving this additional information.

d. The Project does not Exceed 85 Feet

SNI next argues that, if the Project does qualify for AB 130, Applicant must satisfy the labor standards under Government Code section 65913.4(a)(8) since the Project is over 85 feet tall. The statement of law is correct, but not as applied to the Project. On this point, Applicant believes a correction to the record is warranted.

The Staff Report for the July 15, 2026 Director's Hearing states that the building height is 89 feet and 3 inches. This figure actually refers to the height of the top of the parapet, not the building height. For the purposes of AB 130, which calculates height in accordance with the California Building Code ("CBC"), the building height is 84 feet and 10.5 inches. (*See* Applicant's Plan Sheet Page AP3.20.) The CBC has been adopted by the City. (City Code § 24.03.100.)

CBC Section 202 defines building height as "[t]he vertical distance from grade plane to the average height of the highest roof surface." Rooftop structures that are not used for habitation or storage may exceed the CBC height limit by up to 20 feet. (CBC § 504.3.) No Project building will exceed 85 feet in height as measured by the CBC, which is the maximum height that the CBC authorizes for the Project's Type III-A construction typology (wood frame over podium construction).

The CBC is the appropriate method for measuring Project height for the purpose of evaluating AB 130 requirements for several reasons. First, the CBC height measurement methodology has been adopted by the City, as explained above. Second, the CBC, as a state law, is the appropriate tool for measuring height in a state bill such as AB 130. Third, the CBC is used to determine construction typology, and the 85-foot height limit in AB 130 is intended to require additional labor standards for concrete and steel buildings, not Type III-A wood frame over podium construction such as the Project.[1][2][3][4] Finally, using various local height measurement methodologies would produce the absurd result of potentially creating more than 500 different methods to measure height for AB 130 corresponding to the various cities and counties throughout the state.

Furthermore, while the CBC, and not local zoning regulations or other height methodologies, should be used to evaluate AB 130 compliance as outlined above, the Project also is less than 85 feet in height as measured by the City's Zoning Code. The Zoning Code defines the

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1 *See*: Danny Curtin of the California Conference of Carpenters testified before the Senate Budget and Fiscal Review Committee on January 25, 2025, "[H]ousing in the private market is done by people who are not in the trade union movement. Almost 100% of private market housing, and we have a 85 foot cap is where this matters. Above that, it becomes structural and much more complicated, and it's going to be a higher wage base."

2 *See also*: Cal Matters article, "Why One Union Became One of the Most Pro-Housing Voices in California," July 10, 2025, "The Trades say they, too, got what they wanted. For new infill apartments to skip CEQA review, the law requires union-level wages for projects with 100% affordable units, and some union hiring for projects that are taller than 85 feet. Most developments over 85 feet use concrete and steel frame construction, which require a higher skilled labor force that is often unionized anyway, and most entirely income-restricted housing projects make use of public subsidies that require union-level wages. These were relatively modest concessions that Wicks said 'we were happy to make.'"

3 *See also*: Cal Matters article, "One of the Biggest Obstacles to Building New CA Housing Has Now Vanished," June 30, 2025, "Developers of any projects over 85 feet tall would be required to hire a certain share of union workers. There are added restrictions for construction in San Francisco specifically. By the standards of prior housing streamlining bills, those are relatively modest concessions. Most developments over 85 feet use concrete and steel frame construction, which require a higher skilled labor force that is often unionized anyway."

4 An 85-foot height threshold to trigger prevailing wage and associated labor requirements was first included in a previous housing bill, SB 423 (2023). The legislative history for SB 423 confirms that the threshold was chosen to require prevailing wage and associated labor requirements for more intense construction typologies that do not apply to the Project. Senator Scott Weiner, the author of SB 423, stated in an Assembly Natural Resources Committee hearing on July 10, 2023, "What we came up with was that one standard up to 85 ft, a different standard above 85 ft, which tends to correlate with steel constructions, different construction type." (2:10:34 – 2:10:44).) In that same hearing Jay Bradshaw of the Nor Cal Carpenter's union stated "… the short answer is 85 feet and a quarter inch you're high rise construction. It's going to be usually type one." (2:13:13 – 2:13:22).

"Height" of a building as "the vertical distance between its top surface and the "grade" immediately below it." (City Code § 20.200.510.) The parapet, which runs along the outside wall of the building's roof, is not its "surface." Rather, when measured by either the average height of the roof surface or the roof datum, the Project is under 85 feet. Please refer to Applicant's Plan Sheet Page AP3.20 demonstrating that the Project does not exceed 85 feet in height as measured by the CBC or the Zoning Code.

e. The City Properly Conducted Tribal Consultation

SNI states that the administrative record should demonstrate that the City completed tribal consultation and incorporated any COAs resulting from that consultation. Applicant understands that the City has completed tribal consultation and that certain conditions (SPC CUL-1, SPC CUL-2, and SPC TCR-2) have been incorporated into the Project's COAs as a result. A statement in the staff report that the City has complied with all AB 130 tribal consultation requirements and is imposing resulting conditions of approval would demonstrate that this requirement has been met.

f. Applicant will Satisfy the Phase I ESA Requirement

SNI states that AB 130 requires a Phase I ESA and appropriate follow up as a COA for AB 130 projects. This is an accurate statement of law and Applicant fully intends to comply with this requirement. (Pub. Res. Code § 21080.66(c)(1).) Applicant recommends that the condition to perform a Phase I ESA and satisfy any resulting follow up requirements prior to issuance of a certificate of occupancy be added as a COA.

II. Density Bonus Law

SNI argues that the City's findings are inadequate with regard to the Project's calculated number of bonus units and the City's grant of waivers of certain development standards. As an initial point, the Project does not seek or include bonus units, so the City's calculation of the number of bonus units the Project could theoretically include is irrelevant and does not impact the Project application. In fact, because neither the base Project nor the theoretical bonus Project achieves the maximum allowable residential density, it is not entitled to any density bonus, as none is needed to achieve a higher density. (*See* Department of Housing and Community Development Letter to Albert Yang, Assistant City Attorney (March 27, 2026), ("for an application to receive a "density bonus" the maximum allowable gross residential density must be achieved.”))

a. The City's Findings Supporting Applicant's DBL Waivers are Legally Sound

SNI points out an apparent clerical error in the Staff Report that should be corrected. Applicant requested five waivers for the Project. The waivers and the City's justification for granting them are explained on pages 7-8. However, on page 7, the Staff Report incorrectly states "[t]he project has requested fourteen waivers." This appears to be a clerical error, since, on pages 1-

2, the Staff Report states "[t]he project requests five waivers related to the stepback plane, skyline-level massing, balconies, ground-floor residential space, and podium-level massing." SNI argues that this error means that the City's findings "conflate concessions with waivers" but provides no support for this inexplicable assertion.

SNI goes on to argue that the City is granting waivers that Applicant "did not request" and is recharacterizing other requests for relief from development standards as waiver requests. To make this argument, SNI relies on one of Applicant's Plan Sheets attached to the Staff Report rather than the document entitled "470 W San Carlos State Density Bonus Modification and Waivers" that Applicant submitted to the City on June 30, 2026 and which is accessible on the City's Public Permit Search Page.[5] That document includes five requests for waivers under the DBL which correspond to the same five waiver requests analyzed in the Staff Report. In any event, the plain language of the DBL prohibits a city from applying a development standard that physically precludes construction of the project *regardless of whether a waiver is requested for that development standard*.[6] (Gov. Code § 65915(e)(1).) To clarify any apparent confusion, Applicant has since provided the City with an updated plan set that aligns with the waiver request sheet.

Next, SNI asserts that the City applies the wrong legal standards in granting the waiver requests. Under the DBL, a city is precluded from applying any development standard to a project if it will physically preclude development at the density and with the concessions permitted by the DBL. (Gov. Code § 65915(e)(1).) The courts in *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549 and *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755 clarified that DBL waivers apply to the project as designed. In other words, when a project qualifies under the DBL, a city may not apply any development standards that physically preclude development of *that* project. HCD has notified various local agencies that they cannot require a qualifying project to be redesigned in order to avoid the need for a waiver. HCD advised the City of Oceanside: "HCD reminds the City that appellate courts have established (and continue to affirm) that local agencies cannot lawfully redesign a qualifying SDBL project on the theory that if the project were configured differently, it would not need the requested incentives/concessions and waivers. (*Wollmer v. Town of Berkeley* (2011) 193 Cal.App.4th 1329, 1346–1347.) The City must consider the project as proposed, inclusive of any requested concessions or waivers."[7]

Although not required by the DBL, each of Applicant's five waiver requests is supported by a justification demonstrating that application of the development standard to the Project would preclude development of the Project as proposed by Application. These justifications constitute

[5] Accessible here: https://permits.sanjoseca.gov/api/public-portal/permit/attachment?attachmentRSN=499595
[6] The DBL reads: "In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section." (Gov. Code § 65915(e)(1).) It does not require a developer to request waiver of such standards.
[7] HCD Letter of Technical Assistance to City of Oceanside dated January 10, 2023.

sufficient substantial evidence, based on the geometry of the Project with respect to each development standard, and are not merely "conclusory assertions" as SNI suggests. Moreover, the City may only deny a waiver request on the basis that it will result in a "specific, adverse impact" on health or safety or a historical resource, or is contrary to state law. (Gov. Code § 65915(e)(1).) No such evidence exists in the record to support such findings, and SNI's letter does not provide any.

SNI suggests the "driving rationale" for the waiver requests was not physical preclusion but "economics." For support, SNI points to statements made by Applicant at a July 6, 2026 community meeting that the Project "would not pencil" if the waivers were not granted. It would be both novel and legally unfounded to deny a waiver based on statements made at a community meeting when 1) the record itself supports granting the waiver and 2) the statements do not provide a basis on which to deny the waiver request. It should be unsurprising that a development standard which physically precludes portions of the development, thereby shrinking unit sizes and reducing unit count, would also impact the development's financial outlook. The DBL does not prohibit such downstream effects. To the contrary, it contains a legislative declaration that the intent of the DBL is to "cover at least some of the financing gap of affordable housing with regulatory incentives." (Gov. Code § 65915(u)(1).) The only test for granting a waiver is whether the development standard precludes construction of the project as designed. Applicant has provided the City with sufficient substantial evidence, in the form of the DBL waiver requests and justifications, to support the City's grant of the waivers, and it is clear that that City could not meet its burden under the DBL to deny any of the waiver requests.

Finally, SNI contends that the City must confront the fact that the Project is proposed at a lesser density than the maximum permitted at the Property. The legal implication of this fact is not clear. SNI seems to be suggesting that, because greater densities are permitted at the Property, Applicant can redesign the Project to better accommodate its unit count. But this is exactly what the courts in *Schreiber* and *Bankers Hill 150* found that the DBL explicitly prohibits. SNI also argues that because the Project does not include bonus units, the waivers are not needed "to accommodate any additional density." There is no such "additional density" standard in the DBL, and it is undisputed that a project which qualifies for the DBL by providing sufficient affordable units need not utilize a density bonus to take advantage of the DBL's other rights and protections. (Gov. Code §§ 65915(e), (f); *see also* Department of Housing and Community Development Letter to Albert Yang, Assistant City Attorney (March 27, 2026), ("even if an applicant does not request a density bonus (i.e. elects a zero-percent bonus), the project is still eligible for waivers and concessions."))

As the Lead Agency under CEQA, the City has correctly interpreted AB 130 and concluded, based on substantial evidence in the administrative record, that the Project is eligible for AB 130. Moreover, substantial evidence supports the City's grant of the requested DBL waivers. For the above reasons, the City should approve the Project as proposed.

Sincerely,



Zachary D. Rego

ZDR

Attachment A: Matrix Summarizing Results of Comprehensive Records Search for Cortese List

ATTACHMENT A: Matrix Summarizing Results of Comprehensive Records Search **313 Gifford Avenue, San Jose NOT on Cortese List**

#	Cal. Gov. Code	Agency	Site Type	Reference	Detailed Criteria	Current Database (hyperlinks in footnotes)	Site listed in Current Database?
1	§ 65962.5(a)(1)	DTSC	Hazardous waste facilities subject to corrective action (formerly "CALSites")	Cal Health & Saf. Code, § 25187.5	Facilities where DTSC has taken or contracted for corrective action due to owner/operator failure to comply with corrective action orders, or where immediate action was necessary to abate imminent substantial danger to public health, livestock, wildlife, or environment	EnviroStor Database - Very limited list (only 4 facilities currently listed).[1]	No
2	§ 65962.5(a)(2)	DTSC	Land designated as hazardous waste property or border zone property	Cal Health & Saf. Code, § 25220 (Former Article 11)	Land designated as hazardous waste property or border zone property under former statutory provisions	No facilities currently designated.[1]	No
3	§ 65962.5(a)(3)	DTSC	Hazardous waste disposals on public land	Cal Health & Saf. Code, § 25242	Information DTSC receives from a city, county, or state agency on hazardous waste disposals that occurred on public land	DTSC's Emergency Respond Program does not currently keep records of such reports but is working on a mechanism to track these.[1]	N/A
4	§ 65962.5(a)(4)	DTSC	Sites listed under State Response/Superfund programs	Cal Health & Saf. Code, § 78760 (Article 5)	Sites listed under the State Response program (formerly Annual Workplan sites) and Federal Superfund sites requiring response action under hazardous substance release criteria	DTSC's Hazardous Waste and Substances site "Cortese" list.[2]	No
5	§ 65962.5(b)	State DHS	Public drinking water wells with detectable organic contaminants	Cal Health & Saf. Code, § 116395	Public drinking water wells containing detectable levels of organic contaminants subject to analysis	No current listings (program completed in 1988)	N/A
6	§ 65962.5(c)(1)	SWRCB	Underground storage tanks with unauthorized release reports	Cal Health & Saf. Code, § 25295	Underground storage tanks where unauthorized release reports have been filed for releases escaping secondary containment, increasing fire/explosion hazard, or causing deterioration of secondary containment	GeoTracker Database - Active reporting since 1996/1997	No
7	§ 65962.5(c)(2)	SWRCB	Solid waste disposal facilities with hazardous waste migration	Water Code, § 13273(e)	Solid waste disposal facilities where regional water boards have determined hazardous waste has migrated into water and notified DTSC, excluding facilities where migration has been stopped	List maintained by Water Board	No
8	§ 65962.5(c)(3)	SWRCB	Sites with cease and desist orders or cleanup/abatement orders	Water Code, §§ 13301 & 13304	Cease and desist orders issued after January 1, 1986 and cleanup/abatement orders issued after January 1, 1986 concerning discharge of hazardous materials (not including non-hazardous domestic sewage, food processing waste, or sediment)	Water Board database (with caveat about non-hazardous orders)	No
9	§ 65962.5(d)	Local Agency & CalRecycle	Solid waste disposal facilities with known hazardous waste migration	Cal. Code Regs., Tit. 14, § 18051	Solid waste disposal facilities with known migration of hazardous waste, compiled by local enforcement agencies and consolidated by CalRecycle	This information is no longer reported to the Secretary by CalRecycle. Any solid waste disposal facilities with a known migration of hazardous waste should be included on the Cortese list pursuant to the requirements of Government Code Sections 65692.5(c)(2) and/or (c)(3)	N/A

FN1 https://calepa.ca.gov/sitecleanup/corteselist/section-65962-5a/
FN2 https://www.envirostor.dtsc.ca.gov/public/search.asp?cmd=search&reporttype=CORTESE&site_type=CSITES,OPEN,FUDS,CLOSE&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST
FN3 https://calepa.ca.gov/sitecleanup/corteselist/section-65962-5b/
FN4 https://calepa.ca.gov/sitecleanup/corteselist/section-65962-5c/
FN5 https://calepa.ca.gov/wp-content/uploads/2016/10/SiteCleanup-CorteseList-CurrentList.pdf
FN6 https://calepa.ca.gov/wp-content/uploads/2016/10/SiteCleanup-CorteseList-CDOCAOList.xlsx
FN7 https://calepa.ca.gov/sitecleanup/corteselist/section-65962-5d/

Jul 21, 2026

City of San José
200 E. Santa Clara Street
San Jose, CA 95113

Re: Proposed Housing Development Project at 470 West Carlos Street

To: planningsupportstaff@sanjoseca.gov; sylvia.do@sanjoseca.gov;

CC: city.clerk@Sanjoseca.gov; Christopher.Burton@sanjoseca.gov; cao.main@sanjoseca.gov; webmaster.manager@sanjoseca.gov

Dear San Jose Planning Director and Staff,

The California Housing Defense Fund (CalHDF) submits this letter to remind the City of its obligation to abide by all relevant state laws when evaluating the proposed 276-unit housing development project at 470 West Carlos Street, which includes 14 very low-income units. These laws include the Housing Accountability Act (HAA), the Density Bonus Law (DBL), and AB 130.

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subd. (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would reduce the project's density unless, again, such written findings are made. (*Ibid.*) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA's ambit, and it complies with local zoning code and the City's general plan. Increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA (Gov. Code, § 65589.5, subd. (j)(3)). The HAA's protections therefore apply, and the City may not reject the project except based on health and safety standards, as outlined above. Furthermore, if the City rejects the project or impairs its feasibility, it must conduct "a thorough analysis of the economic, social, and environmental effects of the action." (*Id.* at subd. (b).)

CalHDF also writes to emphasize that the DBL offers the proposed development certain protections. The City must respect these protections. In addition to granting the increase in

residential units allowed by the DBL, the City must not deny the project the proposed waivers and concessions with respect to stepback plane, skyline-level massing, balconies, ground-floor residential space, and podium-level massing. If the City wishes to deny requested waivers, Government Code section 65915, subdivision (e)(1) requires findings that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. If the City wishes to deny requested concessions, Government Code section 65915, subdivision (d)(1) requires findings that the concessions would not result in identifiable and actual cost reductions, that the concessions would have a specific, adverse impact on public health or safety, or that the concessions are contrary to state or federal law. The City, if it makes any such findings, bears the burden of proof. (Gov. Code, § 65915, subd. (d)(4).) Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (*Id*. at subd. (p).) Additionally, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City "may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes 'amenities' beyond the bare minimum of building components." (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

Furthermore, the project is eligible for a statutory exemption from CEQA pursuant to AB 130. (Pub. Res. Code, § 21080.66.) Caselaw from the California Court of Appeal affirms that local governments err, and may be sued, when they improperly refuse to grant a project a CEQA exemption or streamlined CEQA review to which it is entitled. (*Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 911.)

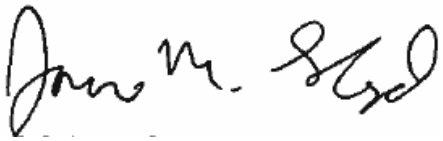
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: by providing affordable housing, it will mitigate the state's homelessness crisis; it will increase the city's tax base; it will bring new customers to local businesses; and it will reduce displacement of existing residents by reducing competition for existing housing. It will also help cut down on transportation-related greenhouse gas emissions by providing housing in denser, more urban areas, as opposed to farther-flung regions in the state (and out of state). While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the City to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations

Jacqueline,

VTA appreciates the opportunity to review and provide comments on the application materials for the proposed project at 313 Gifford Ave in the city of San Jose, shared by City staff on April 10th, 2026.

Project Location and Land Use

VTA supports the proposed land use intensifications in the project area, located within 0.4 miles of Diridon Station, 0.3 miles of two VTA light rail stations, and within 500 feet of four different bus stops for VTA Frequent Bus Route 23. The addition of the 276 new residential units (310 du/acre) will significantly support transit ridership, and the residential land use will complement the area's current mixed-land uses. VTA supports a mix of land uses that encourage a live-work-play activity center for San Jose that offers additional opportunities for residents and employees to incrementally reduce vehicle trips, and greenhouse gas emissions. We encourage the applicant to incorporate some mixed-use components into their project such as retail or publicly accessible co-working space, where feasible, to support this balance.

Transportation Demand Management (TDM) Plan

VTA commends the applicant for the inclusion of multiple TDM measures in their project. Please consider referring to the TDM section of VTA's CDT Manual for guidance and resources related to TDM measures, as well as VTA's TDM Homepage. Specific resources for measures identified in this application include:

- For TP04: Education, Marketing, and Outreach. VTA has a Guaranteed Ride Home program and Vanpool program that the applicant is welcome to inform residents of.
- For TP18: Voluntary Travel Behavior Change. Programs such as VTA Smart Commute Program could be an option to assist with trip planning.

Bicycle and Pedestrian Accommodations

With the addition of this development, the intersection of San Carlos and Gifford will see additional transit use along with increased activity from cars, pedestrians, and cyclists. The street will not only see more use, it will also see more people living along it. VTA encourages the applicant and the City of San Jose work together towards additional safety improvements to this intersection to meet the safety needs of the residents and users to increase safety alongside density.

VTA commends the applicant for providing a new directional curb ramp crossing Gifford. This best practice aligns with ADA guidance. VTA recommends the crosswalks across Gifford be upgraded to high-visibility crosswalks in the east-west direction on both sides of San Carlos.

VTA also appreciates the inclusion of a bicycle parking room on site. VTA recommends the door into the bicycle parking room include ADA-compliant kick plates on both sides so bicyclists can easily enter/exit the room while maneuvering their bikes. At minimum a space for an oversized bike should be provided in the room in the parking garage.
We also encourage the applicant to use best practices for bike room design and build out

Community Design and Transportation Manual
VTA encourages the applicant to utilize the Community Design and Transportation (CDT) Manual to inform the project's design. The CDT guidelines provide strategies for shaping the built environment and parking layouts to promote pedestrian activity, support transit, and enhance community character.

Transportation Analysis
As stated in the Response to Public Works document, it appears that the project would not require a detailed CEQA Transportation Analysis, because the project is covered in the San Jose Downtown Strategy 2040 EIR. However, a Local Transportation Analysis (LTA) will be required. VTA staff would like to review the LTA when it becomes available.

Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me, or the VTA Land Use and Development Review team at plan.review@vta.org.

Best,

Douglas Kean
Transportation Planner II

