COX CASTLE

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File No. 110129

March 16, 2026

VIA E-MAIL

Mayor Klein and City Council
c/o Ms. Momo Ishijima
Senior Planner
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94086

Re: Response to Appeal Points concerning the 510 and 920 DeGuigne Drive Project (PLNG-2025-0230)

To Mayor Klein and City Councilmembers:

We write on behalf of our client, TC III SPP North LLC ("Applicant"), to address the points raised in the appeal of the Planning Commission's approval of the Applicant's housing development project ("Project"). We also write to address Council's interest in why waivers are required for the Project and provide more information about waivers.

This letter has three sections. Section 1 briefly describes the Project and the land use regulations that apply to it, Section 2 responds to the points raised in the appeal, and Section 3 is a conclusion.

1. The Project and Applicable Land Use Regulations

The Project proposes to replace three outdated office buildings with 329 residential units, consisting of 178 townhome units and 151 single-family homes, of which 41 will include an attached accessory dwelling unit ("ADU"). The Project is consistent with the City's vision for the Project site ("Property") as articulated in the General Plan.

The Property has a General Plan land use designation of Medium Density Residential. The Medium Density Residential land use designation allows residential uses at densities from 15 to 24 dwelling units per acre. (Land Use Element, p. 3-85.) Commercial uses are not permitted.

Under state law, the City's zoning must be consistent with its General Plan. (Gov. Code, § 65860.) For this reason and to expedite housing projects, the Housing Accountability Act ("HAA") states that "a proposed housing development project is not

inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan." (Gov. Code, § 65589.5, subd. (j)(4).) Therefore, the Project does not require a rezoning. The City opted to use its Medium Density Residential ("R-3") zoning as the "best fit" zoning given its consistency with the General Plan designation. (See *id.*) The City must apply that zoning "to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project." (*Id.*)

The Applicant submitted a Preliminary Application pursuant to Government Code section 65941.1 on October 17, 2024, which vested the Project in the local land use regulations and fees in place at that time. Accordingly, even if the Council opted to alter the Property's General Plan land use designation or zoning, those alterations would not apply to the Project.

2. Response to Appeal

The appeal raises four issues, each of which is addressed below.

a. Waivers

The appellants claim that the waivers are insufficiently supported and ask for evidence that the design represents the "least-deviating" approach. The Applicant has already provided more detail about the requested waivers than required by State Density Bonus Law ("SDBL") to help the City understand the waiver requests and there is no legal requirement to design the Project to require the fewest number of waivers.

i. *SDBL Requirements*

State Density Bonus Law ("SDBL") states that "[i]n 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, subd. (e)(1).) Subdivision (b) requires a project to provide a certain percentage of affordable units. The Project meets the criteria of subdivision (b). (Compare Gov. Code, § 65915, subd. (b)(1)(D) [10 percent for-sale moderate income units] with the Project [provides 15 percent for-sale moderate income units].)

SDBL goes on to state that "an applicant may submit to a city . . . a proposal for the waiver or reduction of development standards 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 under this section." (Gov. Code, § 65915, subd. (e)(1).) Here, the Applicant submitted a proposal for 17 waivers.

The California Department of Housing and Community Development ("HCD") and California appellate courts have opined about the evidence required to support a waiver. As HCD wrote, "[t]he showing or 'reasonable documentation' required by the applicant is that the project qualifies for a density bonus." (HCD Notice of Violation to the City of Encinitas (Jan. 20, 2022), at p. 3.[1]) California courts agree. For example, in response to a claim that waivers to height and setback requirements could be avoided by redesigning the project, the court held that "[t]he statute does not say that what must be precluded is a project with no amenities, or that amenities may not be the reason a waiver is needed." (*Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1346–1347.) Instead, "[s]tandards may be waived that physically preclude construction of a housing development meeting the requirements for a density bonus, period." (*Id.*, at p. 1346.) Similarly, over a decade later, the court reaffirmed that neither a city nor project opponents could demand that a project applicant redesign a project to reduce waivers required for its courtyard. (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 774–775.) As that court summarized, "unless one of the statutory exceptions applies, so long as a proposed housing development project meets the criteria of the Density Bonus Law by including the necessary affordable units, a city may not apply any development standard that would physically preclude construction of that project as designed." (*Id.* at p. 775.)

ii. *Project's Consistency with SDBL*

The Applicant has provided more information than HCD and courts have held is required to show that the requested waivers are necessary to fit the Project on the site as designed. The Applicant provided 16 pages of diagrams illustrating why the requested waivers are required to avoid a reduction in density. (See **Attachment 1**.) The Applicant also provided detailed reasons that the waivers are required to accommodate the Project's density in the proposed design. (*Id.*) Many of the waiver requests are related to the fact that although the City's Objective Design Standards state they apply to multifamily residences, they are generally written for podium rather than townhome housing construction and therefore are not applicable to the Project. Other waivers relate to the fact that the Project's open spaces are doing a lot of work, including providing bioretention and utility easements, which are incompatible with tree roots and elements that require foundations.

b. Traffic and Safety

The appellants express concern about driveway movements, existing neighborhood traffic conditions, deferred intersection controls, and lack of accurate trip counts.

Appellants seek information about existing conditions, which can be found in the LUTE EIR. As summarized in the Project's CEQA document, the LUTE EIR concluded

[1] Available at https://www.hcd.ca.gov/community-development/housing-element/docs/sdiencinitas-nov-012022.pdf.

that impacts related to traffic operational impacts (level of service or "LOS") from the growth planned by the General Plan would be significant and unavoidable with implementation of all feasible mitigation measures. That does not mean each project would have a significant and unavoidable transportation impact but instead that cumulative growth would lead to traffic congestion beyond what the City then desired.

According to the Project's CEQA checklist and transportation demand management ("TDM") Plan, the Project would reduce vehicle miles traveled ("VMT") per capita compared to existing conditions. (Project CEQA Checklist, p. 4-62.) VMT is equal to trip number multiplied by trip length. Accordingly, trip number (which is used to examine LOS) is baked into VMT. A project that reduces VMT helps to reduce traffic congestion because that project will either decrease the number of trips or the time cars spend on the road or both.

The Project is not only located in a low VMT area, which means residents in that area will drive less than the average Sunnyvale resident, but the Project also must implement a TDM Plan, which will further reduce car trips from the Project. Thus, the Project would not significantly adversely alter existing transportation conditions. Notably, if the Project did not proceed, the existing office building would be re-leased and office trips are higher than residential trips for the same square footage of building.

The Project is not required to solve existing problems (such as existing congestion) as long as it does not make the problem worse, which it will not because the Project will improve VMT. That said, the Project will make frontage improvements, including installing and improving sidewalks, driveway approaches, curb ramps, and street pavement (see, e.g., Conditions of Approval ("COAs") GC-8, EP-24, EP-26), add a multi-use path (COAs BP-33, EP-33, TM-4), and construct an enhanced mid-block crosswalk (COA EP-34) that will improve existing conditions and make it easier and safer for pedestrians and bikers to travel through the area.

c. CEQA

Appellants ask that the City do additional CEQA analysis for the Project, objecting to the use of a checklist to confirm that the Project's impacts are within the impacts disclosed by the LUTE EIR.

Appellants likely do not know that CEQA prohibits additional environmental review in certain circumstances. "CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." (14 Cal. Code Regs., § 15183.)

The Project's CEQA checklist is a project-level analysis that confirms that the Project has no peculiar impacts, particularly because the Project has fewer units than the maximum allowed by the General Plan. Appellants have not submitted substantial evidence that the Project would have a significant environmental impact and that impact could not be mitigated by uniformly applied standards. Therefore, CEQA does not permit additional environmental analysis. (See *Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 928 [Board of Supervisors violated the law when it required a project that qualified for the 15183 Exemption to do additional environmental analysis].)

d. Parking and Neighborhood Impacts

Appellants express concern about an existing shortage of parking in the neighborhood and ask that the City allow street parking in safe locations and ensure fire lanes remain clear to protect emergency access.

The Project will not exacerbate an existing shortage of neighborhood parking and will not impede the City from allowing street parking in safe locations. All fire lanes must remain clear at all times. The Project's residents will have to obey that rule just like other City residents.

The Project already provides 115 more parking spaces than the City can require under State Density Bonus Law (Gov. Code, § 65915, subd. (p)) and State ADU Law (Gov. Code, § 66322, subd. (a)(6)). Under State ADU Law, no parking space is required for ADUs that are part of a proposal that includes a new dwelling unit on the same lot. Under State Density Bonus Law, the maximum allowed parking ratios for the non-ADU units, inclusive of guest parking and accessible spaces, are as follows: two to three bedrooms: one and one-half onsite parking spaces, and four and more bedrooms: two and one-half parking spaces. For the Project, that results in a requirement of 652 parking spaces (171 x 1.5 + 158 x 2.5) inclusive of guest parking. The Project provides 767 parking spaces.

The Project's parking garages also are approximately 20 percent larger than the garages at the neighboring Vale project (the "Vale"), which encourages their use for vehicle parking. In addition, the Project will include covenants, conditions, and restrictions that require residents to use garages for parking vehicles and not for storage. Finally, the Project is located near transit and would improve the City's bicycle and pedestrian systems, as well as implement a TDM Plan, all of which encourage non-vehicular trips that encourage people to own fewer cars.

3. Conclusion

The Applicant proposes a Project that is within the density permitted by the City's General Plan, which is the City's vision for land use. It uses SDBL waivers appropriately and consistent with State law, and in part to accommodate its typology of single-family

homes and townhomes, rather than multifamily buildings. It will improve the existing circulation system and will not have a significant impact on VMT. There is no substantial evidence that undermines the City's careful analysis of the Project and its conclusion that the Project has no peculiar impacts. Finally, there is no evidence that the Project would exacerbate any existing parking shortfalls in the area.

For all of these reasons, we request that the City Council deny the appeal and uphold the Planning Commission's approval of the Project.

Sincerely,

Cox, Castle & Nicholson LLP

Linda C. Klein
Partner

Attachment 1: Density Bonus Request and Waiver Exhibits Submitted to Planning Commission

Cc: Kyle Winkler

ATTACHMENT 1

COX CASTLE

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File No. 110129

February 12, 2026

VIA E-MAIL

Ms. Momoko Ishijima
Senior Planner
City of Sunnyvale
456 West Olive Street
Sunnyvale, CA 94086

Re: Updated Density Bonus Law Requests for the De Guigne & Stewart Drive Project

Dear Momo:

On behalf of our client, TC III SPP North, LLC ("TC III"), we are submitting this updated State Density Bonus Law ("SDBL") request for TC III's proposed housing project consisting of 71 single-family row homes, 80 single-family court homes, 178 townhomes, and 41 accessory dwelling units, with associated circulation, landscaping, parking, and publicly accessible park and trail (the "Project"). The Project is located at the northeast corner of De Guigne Drive and Stewart Drive (the "Property") in the City of Sunnyvale (the "City"). As set forth below, the Project qualifies for a density bonus, an incentive or concession, waivers, and certain parking ratios based on its proposal to make fifteen percent of its total primary units affordable to moderate-income households.

This letter supplements the letters we wrote on April 15, 2025, May 28, 2025, and September 25, 2025, and provides a revised, complete list of TC III's specific requests under SDBL for the Project.

1. TC III's SDBL Qualification and SDBL Requests

Because 15 percent of the total units in the Project would be restricted to moderate-income income households, the Project is eligible for a density bonus, one incentive/concession, waivers or reductions of development standards, and specified parking standards pursuant to the SDBL. (See Gov. Code, § 65915, subds. (b)(1)(D), (e), (f)(4), (p).) As discussed below, TC III requests one concession, multiple waivers, and use of SDBL parking standards. TC III reserves the right to identify additional waivers.

a. Concession

TC III requests a concession to Objective Design Standard ("ODS") section 4.3.1.1, Windows and Glass Recesses. This provision requires that windows be recessed by at least two inches from the main wall, which requires the use of lumber that is more expensive than standard 2x4 framing material, which increases building costs. The architect also has expressed concerns that recessed windows leak more than windows that are flush with the face of the building, increasing maintenance costs to the homeowner and litigation risk for the developer. This concession would result in identifiable and actual cost reductions that allow the developer to provide affordable housing.

b. Waivers

The Project requires the following waivers to accommodate the density proposed by the Project as designed:

i. *Objective Design Standards for Multi-Family and Mixed Use Development*

1. ODS § 2.2, Table 2A, Building Frontage at Front Setback. The ODS require that the building frontage at the front setback line be equal to 65 to 85 percent of the building's width. The front setback line is 20 feet. The buildings along De Guigne Drive and Stewart Drive are setback farther than allowed to accommodate the utilities required for the Project and existing easements. Thus, TC III requests a waiver. Absent this waiver, the Project could not build any units between the first interior road and the utility easements, which would reduce density.

2. ODS § 2.2, Table 2A, Maximum Building Setback from Minimum Front Yard Setback. The townhomes along De Guigne Drive and Stewart Drive do not meet this requirement because the public utility easements parallel to these streets prevent compliance. The buildings along De Guigne Drive and Stewart Drive are setback farther than allowed to accommodate the utilities required for the Project and existing easements. Thus, a waiver is requested. Absent this waiver, the Project could not build any units between the first interior road and the utility easements, which would reduce density.

3. ODS § 2.2, Table 2A, Minimum Ground Floor Plate Height. The townhomes already exceed the applicable height limit of 35 feet, with heights approximately 40 feet and 4 inches. Compliance with a 14-foot ground floor height would exacerbate the exceedance. In addition, California Fire Code D105 requires a fire apparatus access road for when eave heights exceed 30 feet. With the plate heights currently proposed (8 feet -7 inches on the first floor), the eave height is at 30 feet. Including a 14-foot first floor plate height would result in the need to remove the third floor, and that square footage would then be added to the first

and second floors, expanding the width of each building and resulting in fewer units fitting on the Property. Alternatively, there could be a third floor, but fire apparatus access roads would need to be added to Project, which also would reduce units. Accordingly, a waiver is requested to limit the height waiver request.

4. ODS § 5.2.1, Vehicle Access to Parking. This provision requires that the garage door or entry gate into the structure be recessed at least 20 feet from the face of the building at the ground floor. The garage doors are flush with the face of the building, and a 20-foot recess would mean that each townhome unit would need to get wider so that there is room for an entryway next to the garage rather than opposite the garage. Since each unit would need to be wider, fewer units would fit on the Property, and therefore a waiver is required.

5. ODS § 6.2.1.2.2, Exterior Common Open Space External Accessibility. This provision requires that pedestrian pathways linking external public rights-of-way and common open spaces shall incorporate a combination of design approaches from Table 6A to score at least 120 points. The Project achieves 100 points, providing a six-foot wide walk, colored concrete paving, drinking fountains along the pathways, lighting bollards every 20 feet, and trash/recycling/pet waste bins every 150 feet. With the buildings, walkways, and bioretention basis, there is insufficient space to plant trees every 25 feet, provide one permanent bench or landscape planter with seating at least four feet in width every 50 feet. Accordingly, TC III requests a waiver to allow the Project to comply with 80 rather than 120 points.

6. ODS § 6.4, Required Common Open Space Amenities. This provision requires that all common open spaces incorporate a combination of passive and active amenities from Table 6B to score at least 50 points. The Project achieves 20 points, providing planters, boxes, or landscape structures with integrated seating. There is insufficient space to provide the required number of tables with seating, shade structures, permanent benches, or any of the active recreation elements due to the location of the residential units and required bioretention space. Accordingly, TC III requests a waiver to allow the Project to comply with 20 rather than 50 points.

7. ODS § 7.5.6. This provision requires the common open space areas to include a minimum of one tree per 300 square feet of landscaping. Due to the density of the project and underground utility equipment, there is insufficient underground root space for one tree per 300 square feet of landscaping. The only way to increase root space would be to decrease density. Therefore, TC III requests a waiver.

8. ODS § 5.2.4. This provision requires at least one parking space dedicated to loading/unloading or pick-up/drop-off activities be provided per multifamily building on private property, be within 10 feet of the building being served, and be 350 square feet, with a minimum dimension of 35 feet in one direction. The Project requests a waiver to this requirement, including number of stalls, length of stalls, and stall area. The Project would provide three regular stalls for loading, coordinated through the required parking management plan. Accommodating this provision would result in the need for more and larger parking stalls, reducing the Property available for housing.

ii. *Sunnyvale Municipal Code*

9. Minimum Lot Size. Sunnyvale Municipal Code ("SMC") Table 19.30.020 states that in the R-3 Zone there is an 8,000 square-foot lot size minimum absent a use permit or special development permit, which allow smaller lot sizes provided that overall density is consistent with the zoning district. The Project's overall density is consistent with the zoning district, but the single-family home lots are less than 8,000 square feet, with lots as small as 1,600 square feet. Accordingly, TC III requests a waiver because staff found the application complete without requiring a use permit to alter this standard. Absent this waiver, each single-family unit's lot would have to be larger and not as many units would fit on the Property.

10. Minimum Lot Width. SMC Table 19.30.020 states that in the R-3 Zone there is a minimum lot width of 82 feet at the front yard setback for corner lots and a minimum lot width of 120 feet at the front yard setback for interior lots. TC III requests waivers to these standards to allow lot widths ranging from 29 to 48 feet for the proposed single-family homes. Absent this waiver, each lot would need to be wider and not as many units would fit on the Property.

11. Building Height. SMC section 19.32.020 establishes a 35-foot height limit. TC III requests a waiver to allow heights up to 45 feet. Absent this waiver, each unit would need a larger first and second floor, and there is insufficient property to accommodate larger footprints without reducing density.

12. Minimum Front Yard Setback. SMC section 19.34.030 requires a minimum front yard setback of 15 feet. TC III requests a waiver to allow front setbacks as small as 3 feet. Absent this waiver, each front yard would need to be larger, resulting in fewer lots and decreased density.

13. Average Front Yard Setback. SMC section 19.34.030 requires an average front yard setback of 20 feet. TC III requests a waiver to allow the average setback to be as small as 3.5 feet. Absent this waiver, each front yard would need to be larger, resulting in fewer lots and decreased density.

14. Minimum Total Side Yard Setback. SMC section 19.34.030 requires a total side yard setback of at least 15 feet. TC III requests a waiver to allow a total side yard setback as small as 4 feet. Absent this waiver, side yards would need to be larger, resulting in fewer lots and decreased density.

15. Minimum Side Yard Setback. SMC section 19.34.030 requires a minimum side yard setback of 6 feet, and Municipal Code section 19.34.080 states that the minimum side yard setback increases by 3 feet at each story above the first floor. TC III requests a waiver to allow side setbacks at all stories as small as 3.75 feet. Absent this waiver, side yards would need to be larger at each story. At the first story, larger setbacks would result in fewer lots and decreased density. Increased setbacks at the upper stories would result in larger first stories, which would require larger lots, resulting in fewer lots being able to fit on the Property and decreased density.

16. Minimum Rear Yard Setback. SMC section 19.34.030 requires a minimum rear yard setback of 20 feet. TC III requests a waiver to allow rear setbacks as small as two feet. Absent this waiver, rear yards would need to be larger, resulting in fewer lots and decreased density.

17. Mechanical Equipment. SMC Section 19.48.100 states any mechanical equipment that is higher than eighteen inches must meet the side and rear yard setbacks of the zoning district of the property where such equipment is located. As noted above, TC III has requested waivers for side and rear yard setbacks and will have air conditioning units taller than eighteen inches in those yards. TC III requests a waiver to allow such mechanical equipment in the reduced side and rear yards.

c. Parking Meets State Density Bonus Law Requirements

Under the SDBL, TC III is entitled to provide "a vehicular parking ratio, inclusive of parking for persons with a disability and guests" consisting of 1.5 parking spaces for each two or three-bedroom unit, and 2.5 parking spaces for each unit with four or more bedrooms. (Gov. Code, § 65915, subd. (p).) Under SDBL, "a development may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking." (*Id*., subd. (p)(4).) Under the City's code, the ADUs do not require parking. (Mun. Code, § 19.79.020(d).)

The Project consists of 171 2- and 3-bedroom units (257 parking spaces required) and 158 units with four or more bedrooms (395 parking spaces required). The Project will provide 651 covered parking spaces in garages attached to each unit and 116 additional uncovered, guest parking spaces. The Project's 767 parking spaces exceeds the 652 parking spaces required under the SDBL.

* * * * *

We look forward to working with the City to process the Project application and bring much needed housing, including affordable housing, to the community.

Sincerely,

Cox, Castle & Nicholson LLP

Linda C. Klein

cc: Shaunn Mendrin
Noren Caliva-Lepe
Sandy Lee
Kyle Winkler
Steven Garrett

1. ODS § 2.2, Table 2A, Building Frontage at Front Setback. The ODS require that the building frontage at the front setback line be equal to 65 to 85 percent of the building's width. The front setback line is 20 feet. The buildings along De Guigne Drive and Stewart Drive are setback farther than allowed to accommodate the utilities required for the Project and existing easements. Thus, TC III requests a waiver. Absent this waiver, the Project could not build any units between the first interior road and the utility easements, which would reduce density.

2. ODS § 2.2, Table 2A, Maximum Building Setback from Minimum Front Yard Setback. The townhomes along De Guigne Drive and Stewart Drive do not meet this requirement because the public utility easements parallel to these streets prevent compliance. The buildings along De Guigne Drive and Stewart Drive are setback farther than allowed to accommodate the utilities required for the Project and existing easements. Thus, a waiver is requested. Absent this waiver, the Project could not build any units between the first interior road and the utility easements, which would reduce density.

LEGEND

	DESCRIPTION
———	EXISTING BOUNDARY
– – –	EXISTING EASEMENT LINE
BDLG 2	BUILDING NUMBER
	BIORETENTION
	EX PRIVATE COMMUNICATION EASEMENT (13741332)
	EX PUE (695 M 3)
EX	EXISTING
PUE	PUBLIC UTILITY EASEMENT

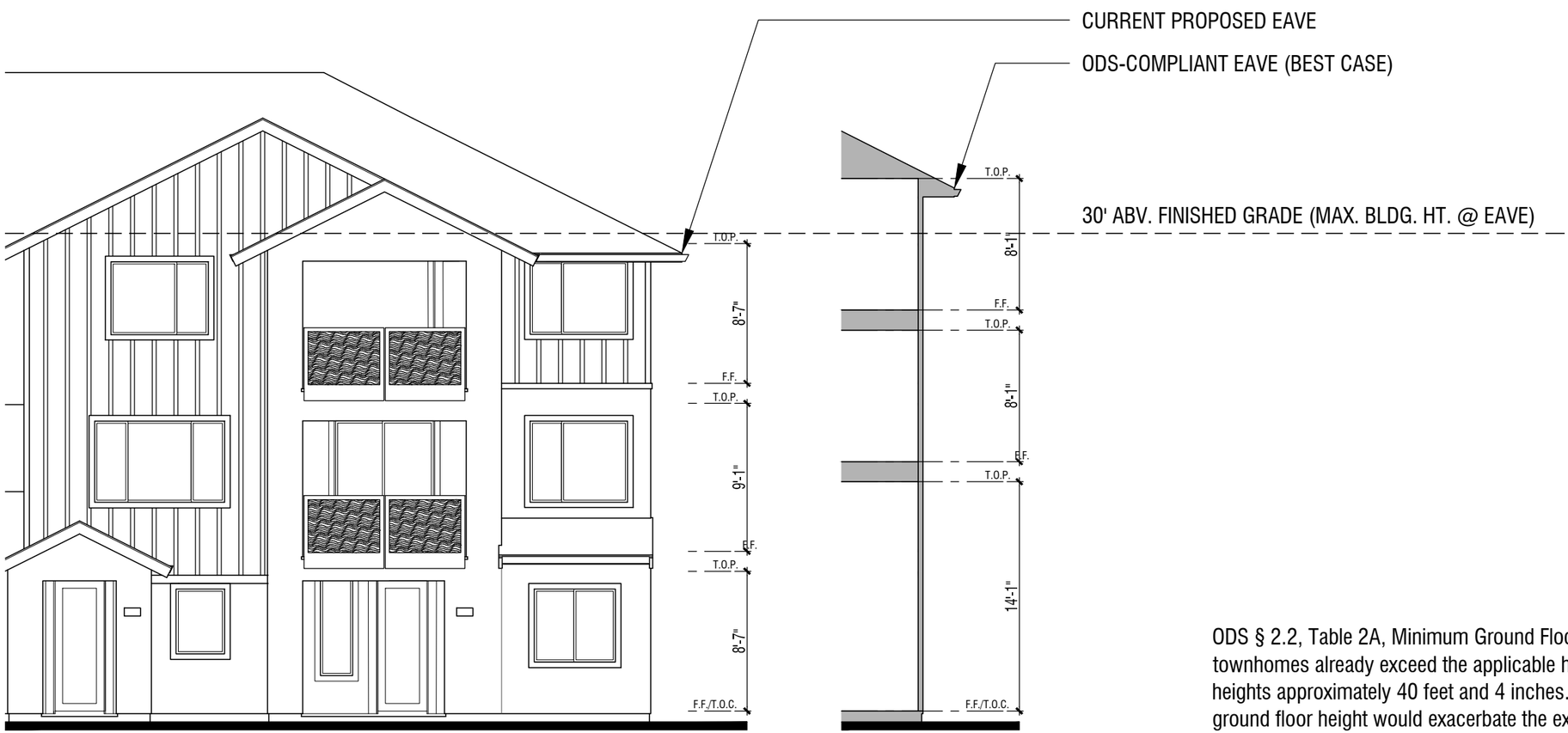
WAIVER 1 & 2

CITY OF SUNNYVALE SANTA CLARA COUNTY CALIFORNIA

SCALE: 1" = 120' DATE: FEBRUARY 2026

0' 120' 240'

cbg
SAN RAMON (925) 866-0322
ROSEVILLE (916)788-4456
WWW.CBANDG.COM
CIVIL ENGINEERS ▪ SURVEYORS ▪ PLANNERS



CURRENT PROPOSED ELEVATION

ODS 2.2 FIRST FLOOR
14' HEIGHT REQUIREMENT

ODS § 2.2, Table 2A, Minimum Ground Floor Plate Height. The townhomes already exceed the applicable height limit of 35 feet, with heights approximately 40 feet and 4 inches. Compliance with a 14-foot ground floor height would exacerbate the exceedance. In addition, California Fire Code D105 requires a fire apparatus access road for when eave heights exceed 30 feet. With the plate heights currently proposed (8 feet -7 inches on the first floor), the eave height is at 30 feet. Including a 14-foot first floor plate height would result in the need to remove the third floor, and that square footage would then be added to the first and second floors, expanding the width of each building and resulting in fewer units fitting on the Property. Alternatively, there could be a third floor, but fire apparatus access roads would need to be added to Project, which also would reduce units. Accordingly, a waiver is requested to limit the height waiver request.

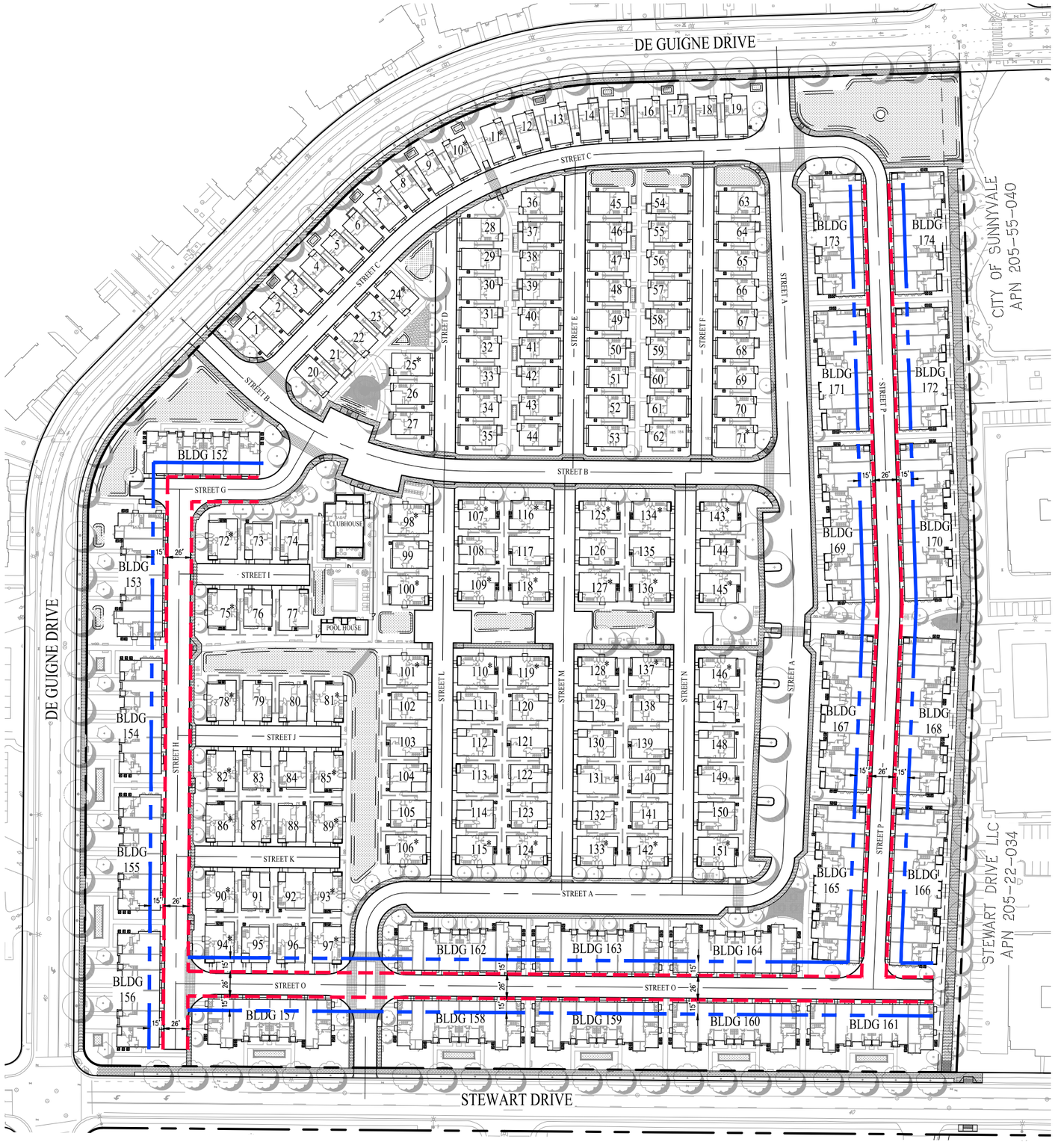
WAIVER EXHIBIT | WAIVER #3: ODS 2.2 TABLE 2A

TIDEWATER
LENNAR

SUNNYVALE PARK PLACE
SUNNYVALE, CA

 | 2024168 | 02-03-25

ARCHITECTS . PLANNERS . DESIGNERS
WHA.
ORANGE COUNTY . LOS ANGELES . BAY AREA . SACRAMENTO



3. ODS § 2.2, Table 2A, Minimum Ground Floor Plate Height. The townhomes already exceed the applicable height limit of 35 feet, with heights approximately 40 feet and 4 inches. Compliance with a 14-foot ground floor height would exacerbate the exceedance. In addition, California Fire Code D105 requires a fire apparatus access road for when eave heights exceed 30 feet. With the plate heights currently proposed (8 feet -7 inches on the first floor), the eave height is at 30 feet. Including a 14-foot first floor plate height would result in the need to remove the third floor, and that square footage would then be added to the first and second floors, expanding the width of each building and resulting in fewer units fitting on the Property. Alternatively, there could be a third floor, but fire apparatus access roads would need to be added to Project, which also would reduce units. Accordingly, a waiver is requested to limit the height waiver request.

LEGEND

	DESCRIPTION
— — — —	EXISTING BOUNDARY
———	PROPOSED CENTERLINE
BDLG 2	BUILDING NUMBER
- - - -	26' FIRE ACCESS ROAD
— — —	15' MIN AERIAL APPARATUS TO BUILDING

WAIVER #3

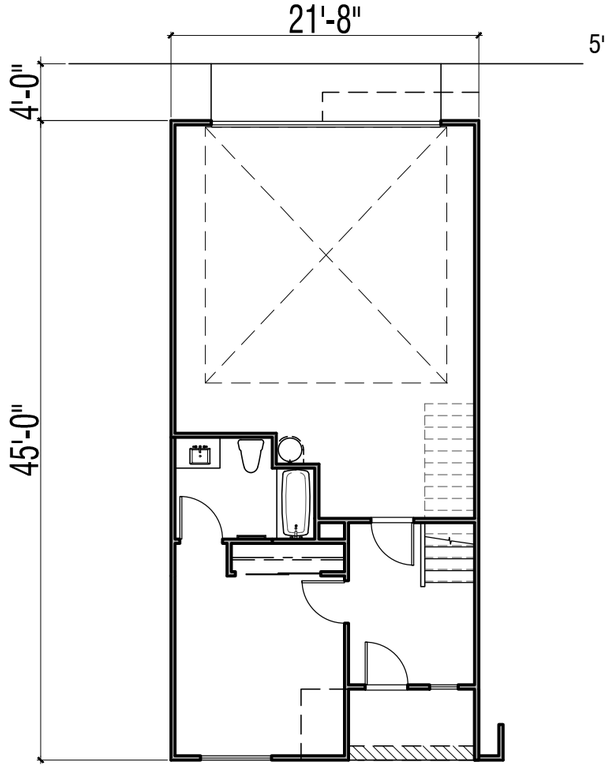
SUNNYVALE PARK PLACE

CITY OF SUNNYVALE SANTA CLARA COUNTY CALIFORNIA

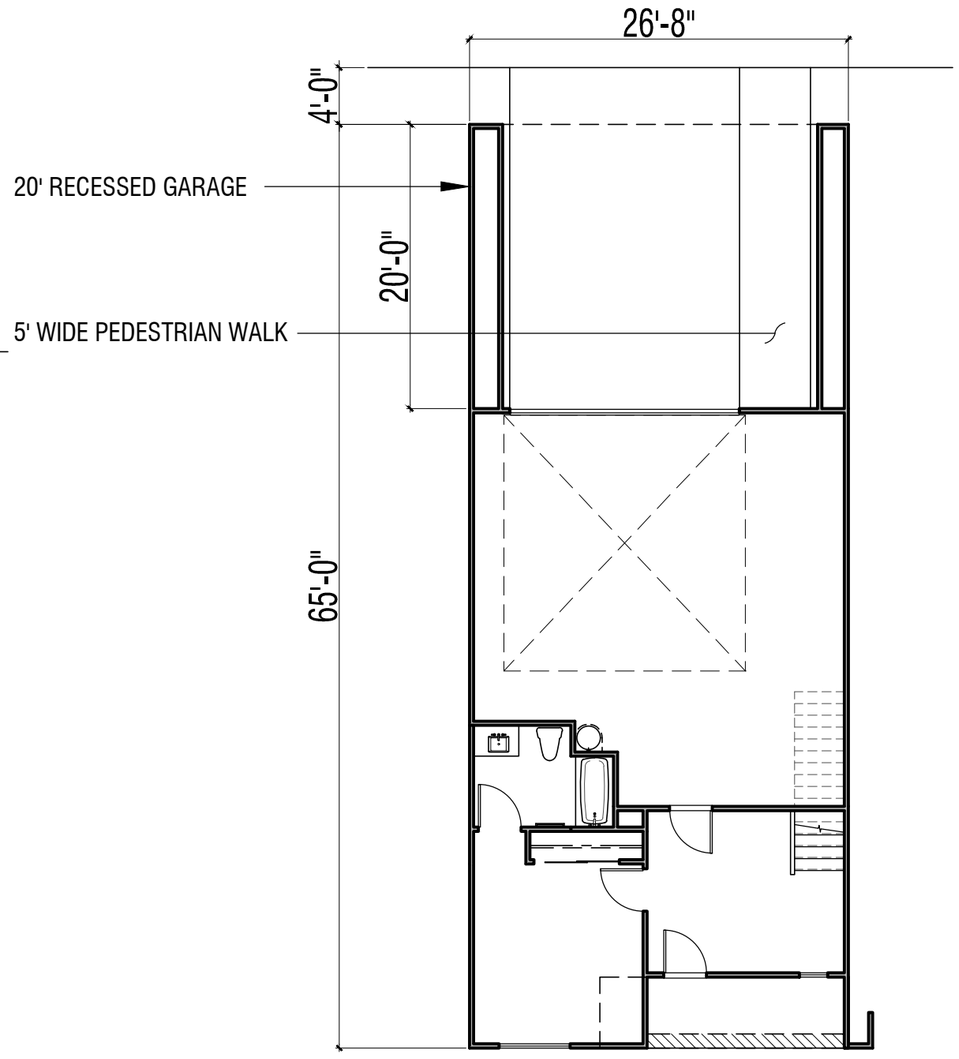
SCALE: 1" = 120' DATE: FEBRUARY 2026

0' 120' 240'

cbg CIVIL ENGINEERS ▪ SURVEYORS ▪ PLANNERS
SAN RAMON (925) 866-0322
ROSEVILLE (916)788-4456
WWW.CBANDG.COM



CURRENT PROPOSED PLAN



ODS 5.2.1 WITH GARAGE RECESS
AND PEDESTRIAN WALK

ODS § 5.2.1, Vehicle Access to Parking. This provision requires that the garage door or entry gate into the structure be recessed at least 20 feet from the face of the building at the ground floor. The garage doors are flush with the face of the building, and a 20-foot recess would mean that each townhome unit would need to get wider so that there is room for an entryway next to the garage rather than opposite the garage. Since each unit would need to be wider, fewer units would fit on the Property, and therefore a waiver is required.

WAIVER EXHIBIT | Waiver #4: ODS 5.2.1

TIDEWATER LENNAR

SUNNYVALE PARK PLACE
SUNNYVALE, CA

 | 2024168 | 02-03-25

ARCHITECTS . PLANNERS . DESIGNERS
WHA.
ORANGE COUNTY . LOS ANGELES . BAY AREA . SACRAMENTO

SUNNYVALE PARK PLACE

WAIVER REQUEST EXHIBIT

WAIVER #5

ODS 6.2.1.2.2 EXTERIOR COMMON OPEN SPACE EXTERNAL ACCESSIBILITY

SITE CONSTRAINTS LEGEND

1. TREES, BENCHES & PLANTERS W/ PERMANENT SEATING DO NOT FIT IN THE NARROW SPACE BETWEEN THE BUILDINGS, SIDEWALKS & BIORETENTION
2. TREES, BENCHES & PLANTERS W/ PERMANENT SEATING DO NOT FIT IN THE NARROW SPACE BETWEEN SOME SIDEWALKS & BIORETENTION
3. TREES CANNOT BE PLANTED ALONG SECTION OF PEDESTRIAN CORRIDOR BECAUSE OF (E) COMMUNICATION EASEMENT & TIGHT SPACES WITH BUILDINGS & WALKWAYS
4. TREES CANNOT BE PLANTED IN TIGHT SPACES IN BETWEEN BUILDINGS
5. GIVEN CONSTRAINTS LISTED ABOVE, TREES AND BENCHES ALONG PATH OF TRAVEL WOULD REDUCED NUMBER OF UNITS ON-SITE AS SHOWN

PATH OF TRAVEL LEGEND

PATHS OF TRAVEL FROM PUBLIC RIGHT-OF-WAY TO INTERNAL OPEN SPACES

DOES NOT ACHIEVE W/ ODS 6.2 POINTS

ACHIEVES W/ ODS 6.2 POINTS

NOTES:
-EXHIBIT SHOWS LACK OF SPACE REQUIRED TO PROVIDE PEDESTRIAN PATHWAY DESIGN ELEMENTS PER ODS SECTION 6.2. TREES, BENCHES & PLANTERS W/ PERMANENT SEATING LISTED AS POINT POSSIBILITIES CANNOT BE LOCATED CONSISTENTLY TO ACHIEVE 120 POINTS.
-SEE SHEET L0.9 OF LANDSCAPE DRAWING SET FOR FULL COMMON OPEN SPACE AREAS & PEDESTRIAN PATHWAY DESIGN POINTS ACHIEVED

ODS § 6.2.1.2.2, Exterior Common Open Space External Accessibility.
This provision requires that pedestrian pathways linking external public rights-of-way and common open spaces shall incorporate a combination of design approaches from Table 6A to score at least 120 points. The Project achieves 100 points, providing a six-foot wide walk, colored concrete paving, drinking fountains along the pathways, lighting bollards every 20 feet, and trash/recycling/pet waste bins every 150 feet. With the buildings, walkways, and bioretention basis, there is insufficient space to plant trees every 25 feet, provide one permanent bench or landscape planter with seating at least four feet in width every 50 feet. Accordingly, TC III requests a waiver to allow the Project to comply with 80 rather than 120 points.

0 120 240 FT.
SCALE: 1" = 120'
DATE: 01/30/26
JOB# 24006.01

N

WAIVER #6
ODS 6.4 REQUIRED COMMON OPEN SPACE AMENITIES

20'x20 SHADE STRUCTURES W/ CIRCULATION SPACE SHOWN (RED), 30 QTY. REQUIRED. 7 QTY. 10 FT. SQUARE SHADE SAILS PROVIDED

REQUIRED PLAY STRUCTURES W/ FALL ZONES & CIRCULATION SPACE BEYOND WHAT IS CURRENTLY SPECIFIED IN PLAN (MAGENTA COLOR, 3,000 SF REQUIRED).

REQUIRED 30'x30' SPORT COURTS W/ CIRCULATION SPACE SHOWN (BLUE COLOR, 15 QTY. REQUIRED). NONE SPECIFIED GIVEN DENSITY OF SITE

REQUIRED PERMANENT PICNIC TABLE OR OTHER TABLE W/ SEATING W/ CIRCULATION SPACE SHOWN (GREEN, 30 QTY. REQUIRED) BEYOND WHAT IS CURRENTLY SPECIFIED IN PLAN.

REQUIRED BENCHES BEYOND WHAT IS CURRENTLY SPECIFIED IN PLAN. (ORANGE, 150 QTY. REQUIRED)

NOTES:
-EXHIBIT SHOWS LACK OF SPACE REQUIRED TO PROVIDE OPEN SPACE AMENITIES PER ODS SECTION 6.4.
-149,800 SF OF COMMON OPEN SPACE PROVIDED.
-BBQ STRUCTURE & FIRE PITS ARE NOT APPLICABLE AS PROJECT IS ALL ELECTRIC W/ NO GAS SERVICE.
-SEE SHEET L0.8 OF LANDSCAPE DRAWING SET FOR FULL OPEN SPACE AMENITY INFO.

ODS § 6.4, Required Common Open Space Amenities.
This provision requires that all common open spaces incorporate a combination of passive and active amenities from Table 6B to score at least 50 points. The Project achieves 20 points, providing planters, boxes, or landscape structures with integrated seating. There is insufficient space to provide the required number of tables with seating, shade structures, permanent benches, or any of the active recreation elements due to the location of the residential units and required bioretention space. Accordingly, TC III requests a waiver to allow the Project to comply with 20 rather than 50 points.

PROPOSED BENCH LOCATIONS (ORANGE), TYP.

PROPOSED PICNIC/CAFE TABLE LOCATIONS, TYP.

0 120 240 FT.
SCALE: 1" = 120'
DATE: 01/30/26
JOB# 24006.01

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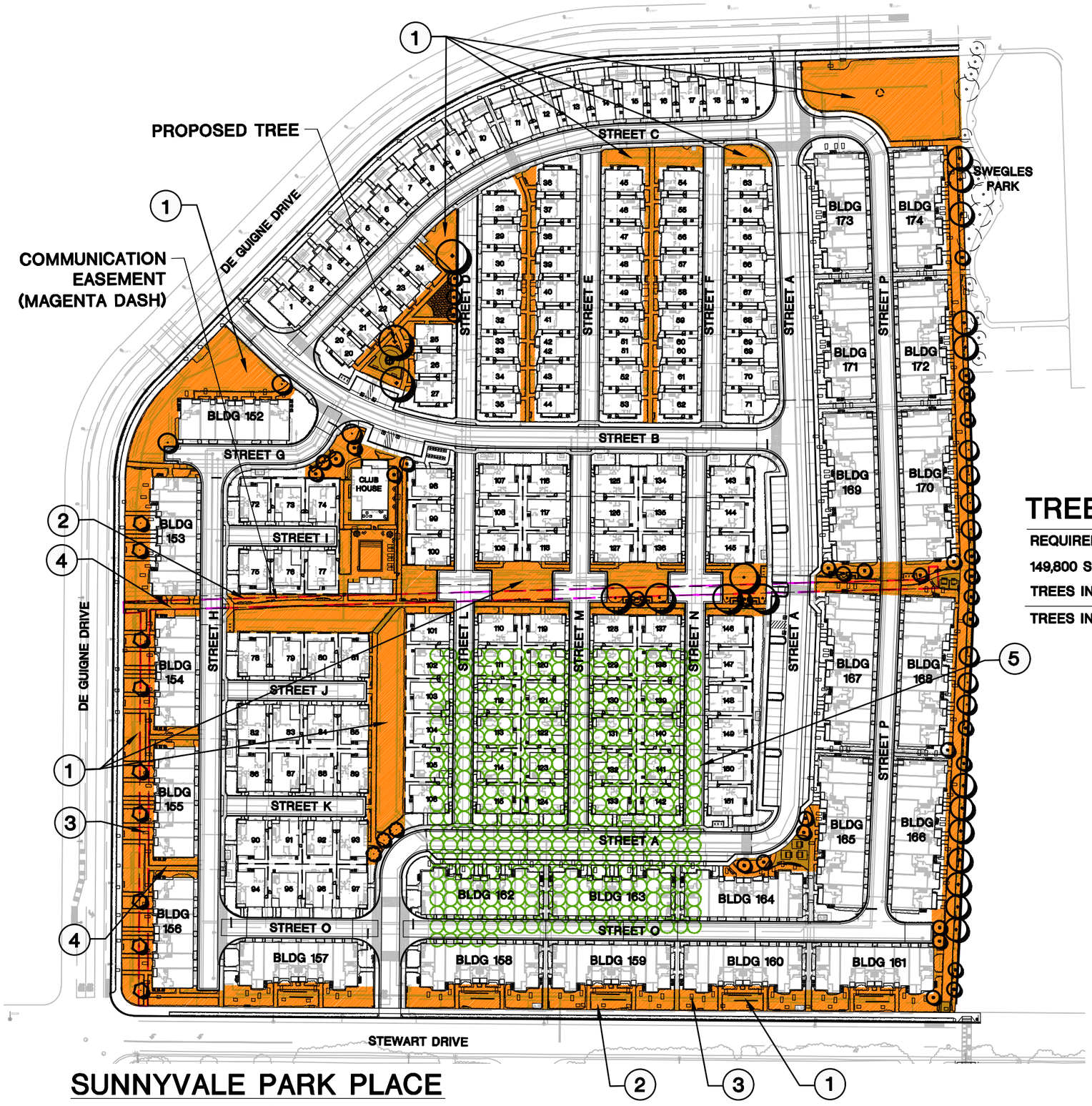
SUNNYVALE PARK PLACE
WAIVER REQUEST EXHIBIT

WAIVER #7
ODS 7.5.6 TREES IN COMMON OPEN SPACE



SITE CONSTRAINTS LEGEND

1. TREES CANNOT BE PLANTED IN BIORETENTION (SEE L0.8 FOR FULL BIORETENTION LOCATIONS)
2. TREES CANNOT BE PLANTED IN EXISTING COMMUNICATION EASEMENT OR PUBLIC UTILITY EASEMENT
3. TREES CANNOT BE PLANTED AT FIRE LADDER PAD LOCATIONS
4. TREES CANNOT BE PLANTED IN TIGHT SPACES IN BETWEEN BUILDINGS
5. TOTAL 425 TREES AT 15' DIAMETER CANOPY TO CANOPY WOULD REDUCED NUMBER OF UNITS ON-SITE AS SHOWN

TREES IN COMMON OPEN SPACE

REQUIRED AMOUNT OF TREES IN COMMON OPEN SPACE = ONE TREE PER 300 SF OF COS

149,800 SF OF COMMON OPEN SPACE DIVIDED BY 300 SF = 500 TREES REQUIRED

TREES IN COMMON OPEN SPACE PROVIDED = 75 QTY.

TREES IN COMMON OPEN SPACE DEFICIT = -425 QTY.

NOTES:
-EXHIBIT SHOWS LACK OF SPACE REQUIRED TO PROVIDE TREES IN COMMON OPENS SPACE PER ODS SECTION 6.2.
-TREES OUTSIDE OF COMMON OPEN SPACE AREAS ARE NOT SHOWN ON THIS DIAGRAM
-SEE SHEET L0.9 OF LANDSCAPE DRAWING SET FOR FULL COMMON OPEN SPACE AREAS & COMMON OPEN SPACE TREE LOCATIONS

ODS § 7.5.6. This provision requires the common open space areas to include a minimum of one tree per 300 square feet of landscaping. Due to the density of the project and underground utility equipment, there is insufficient underground root space for one tree per 300 square feet of landscaping. The only way to increase root space would be to decrease density. Therefore, TC III requests a waiver.

0 120 240 FT.
SCALE: 1" = 120'
DATE: 01/30/26
JOB# 24006.01

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L-3 3 of 3

SUNNYVALE PARK PLACE
WAIVER REQUEST EXHIBIT

8. ODS § 5.2.4. This provision requires at least one parking space dedicated to loading/unloading or pick-up/drop-off activities be provided per multifamily building on private property, be within 10 feet of the building being served, and be 350 square feet, with a minimum dimension of 35 feet in one direction. The Project requests a waiver to this requirement, including number of stalls, length of stalls, and stall area. The Project would provide three regular stalls for loading, coordinated through the required parking management plan. Accommodating this provision would result in the need for more and larger parking stalls, reducing the Property available for housing.

9. Minimum Lot Size. SMC Table 19.30.020 states that in the R-3 Zone there is an 8,000 square-foot lot size minimum absent a use permit or special development permit, which allow smaller lot sizes provided that overall density is consistent with the zoning district. The Project's overall density is consistent with the zoning district, but the single-family home lots are less than 8,000 square feet, with lots as small as 1,600 square feet. Accordingly, TC III requests a waiver because staff found the application complete without requiring a use permit to alter this standard. Absent this waiver, each single-family unit's lot would have to be larger and not as many units would fit on the Property.

10. Minimum Lot Width. SMC Table 19.30.020 states that in the R-3 Zone there is a minimum lot width of 82 feet at the front yard setback for corner lots and a minimum lot width of 120 feet at the front yard setback for interior lots. TC III requests waivers to these standards to allow lot widths ranging from 29 to 48 feet for the proposed single-family homes. Absent this waiver, each lot would need to be wider and not as many units would fit on the Property.

LEGEND

DESCRIPTION	
	BOUNDARY
	PROPOSED LOT LINE
2	PROPOSED LOT NUMBER
PARCEL A	PROPOSED PARCEL
	LOADING/UNLOADING ZONES 350 SF (ODS 5.2.4)
	CITY OF SUNNYVALE 8,000 SF MIN LOT SIZE PER SMC 19.30.020 (SMU 13)
	CITY OF SUNNYVALE MIN 82' AND 120' MIN FRONTAGE LOT WIDTHS PER SMC 19.30.020 (SMU 14)

WAIVER #8, 9, 10
SUNNYVALE PARK PLACE

CITY OF SUNNYVALE SANTA CLARA COUNTY CALIFORNIA

SCALE: 1" = 120' DATE: FEBRUARY 2026

0' 120' 240'

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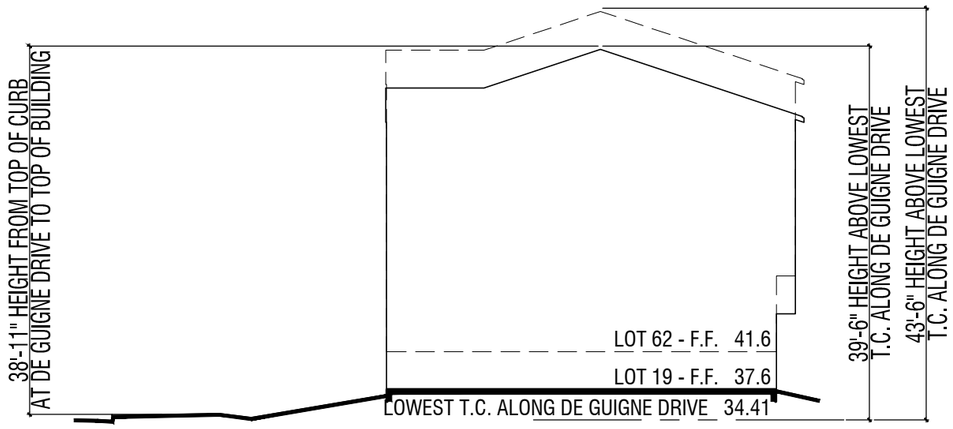
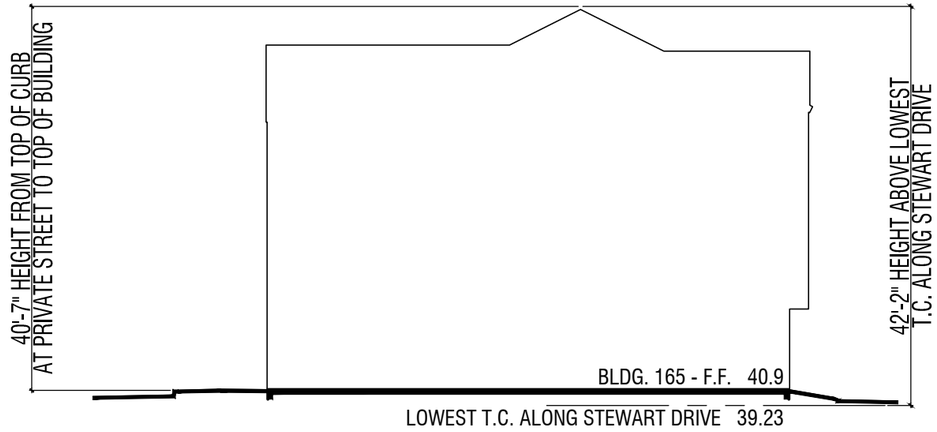
H:\3977-000\ACAD\EXHIBITS\XB-17_ODS WAIVER 8 EXHIBIT.DWG

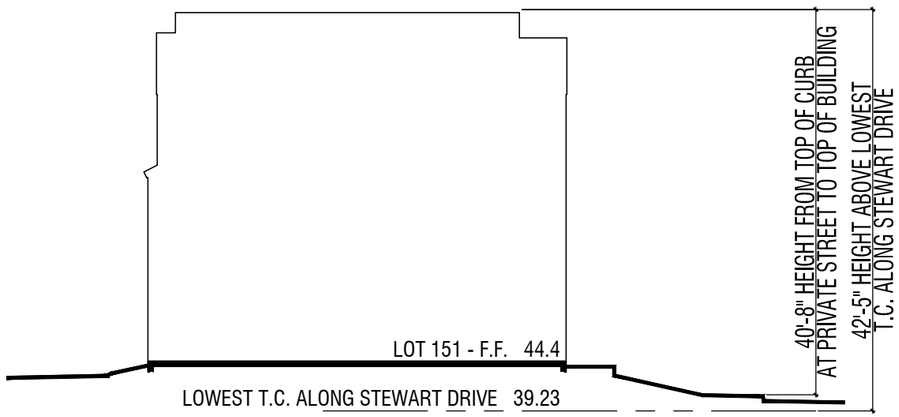
Building Height. SMC section 19.32.020 establishes a 35-foot height limit. TC III requests a waiver to allow heights up to 45 feet. Absent this waiver, each unit would need a larger first and second floor, and there is insufficient property to accommodate larger footprints without reducing density.



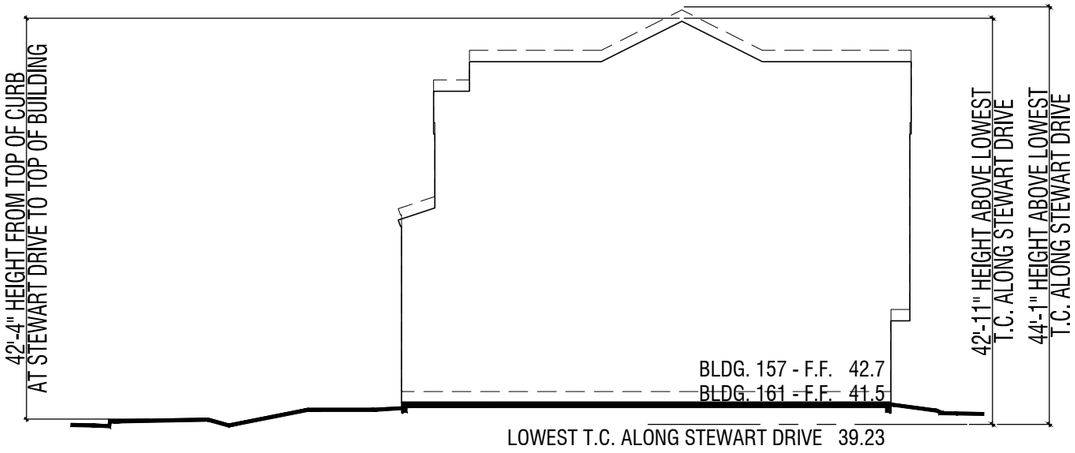
SECTION A - ALLEY HOME
(—— LOT 19; – – – LOT 62)



SECTION C - INTERLOCKING THS
(—— BLDG. 165)



SECTION B - COURT HOME
(—— LOT 151)



SECTION D - ATTACHED ROWS
(—— BLDG. 161; – – – BLDG. 157)

WAIVER EXHIBIT | Waiver #11: SUNNYVALE ZONING CODE 19.32.020

TIDEWATER LENNAR

SUNNYVALE PARK PLACE
SUNNYVALE, CA

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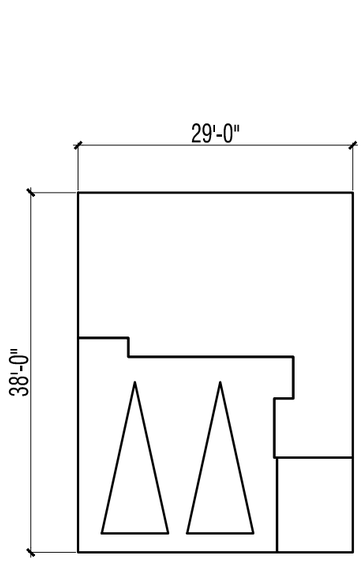
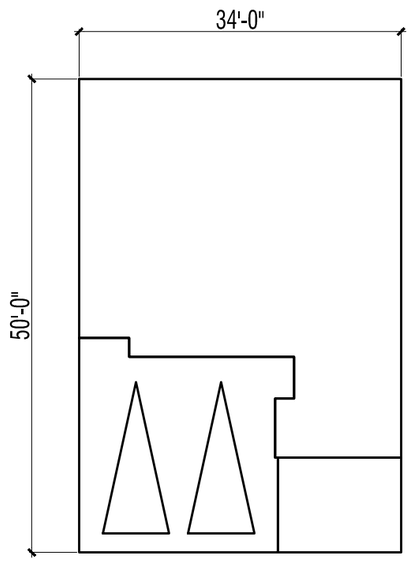


Court Home
Typ. 3-Story Footprint



Approximate footprint for similar SF house at two stories

Building Height. SMC section 19.32.020 establishes a 35-foot height limit. TC III requests a waiver to allow heights up to 45 feet. Absent this waiver, each unit would need a larger first and second floor, and there is insufficient property to accommodate larger footprints without reducing density.

WAIVER EXHIBIT | Waiver #11: SUNNYVALE ZONING CODE 19.32.020

TIDEWATER LENNAR

SUNNYVALE PARK PLACE
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12. Minimum Front Yard Setback. SMC section 19.34.030 requires a minimum front yard setback of 15 feet. TC III requests a waiver to allow front setbacks as small as 3 feet. Absent this waiver, each front yard would need to be larger, resulting in fewer lots and decreased density.

LEGEND

	DESCRIPTION
81	PROPOSED LOT NUMBER
	CITY OF SUNNYVALE MIN 15' FRONTAGE SETBACK PER SMC 19.34.030 (SMU 16)
	LOSS OF UNITS

WAIVER #12

SUNNYVALE PARK PLACE

CITY OF SUNNYVALE SANTA CLARA COUNTY CALIFORNIA

SCALE: 1" = 40' DATE: FEBRUARY 2026

0' 40' 80'

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13. Average Front Yard Setback. SMC section 19.34.030 requires an average front yard setback of 20 feet. TC III requests a waiver to allow the average setback to be as small as 3.5 feet. Absent this waiver, each front yard would need to be larger, resulting in fewer lots and decreased density.

LEGEND

	DESCRIPTION
81	PROPOSED LOT NUMBER
	CITY OF SUNNYVALE AVERAGE 20' FRONTAGE SETBACK PER SMC 19.34.030 (SMU 17)
	LOSS OF UNITS

WAIVER #13

SUNNYVALE PARK PLACE

CITY OF SUNNYVALE SANTA CLARA COUNTY CALIFORNIA

SCALE: 1" = 40' DATE: FEBRUARY 2026

0' 40' 80'

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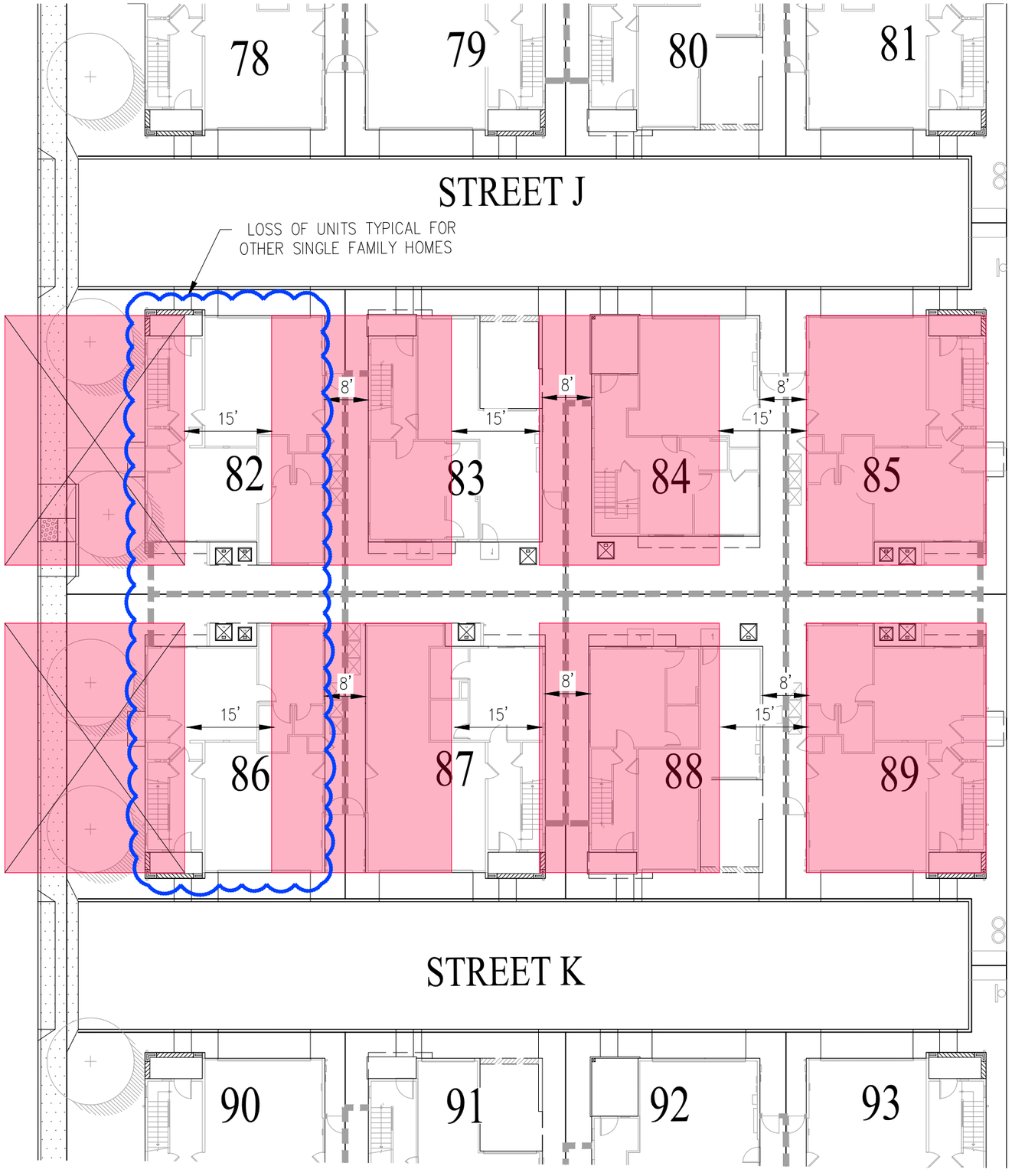

14. Minimum Total Side Yard Setback. SMC section 19.34.030 requires a total side yard setback of at least 15 feet. TC III requests a waiver to allow a total side yard setback as small as 8 feet. Absent this waiver, side yards would need to be larger, resulting in fewer lots and decreased density.

LEGEND

	DESCRIPTION
81	PROPOSED LOT NUMBER
	CITY OF SUNNYVALE MIN 15' TOTAL SIDEYARD SETBACK PER SMC 19.34.030 (SMU 18)
	LOSS OF UNITS

WAIVER #14

SUNNYVALE PARK PLACE

CITY OF SUNNYVALE SANTA CLARA COUNTY CALIFORNIA

SCALE: 1" = 20' DATE: FEBRUARY 2026

0' 20' 40'

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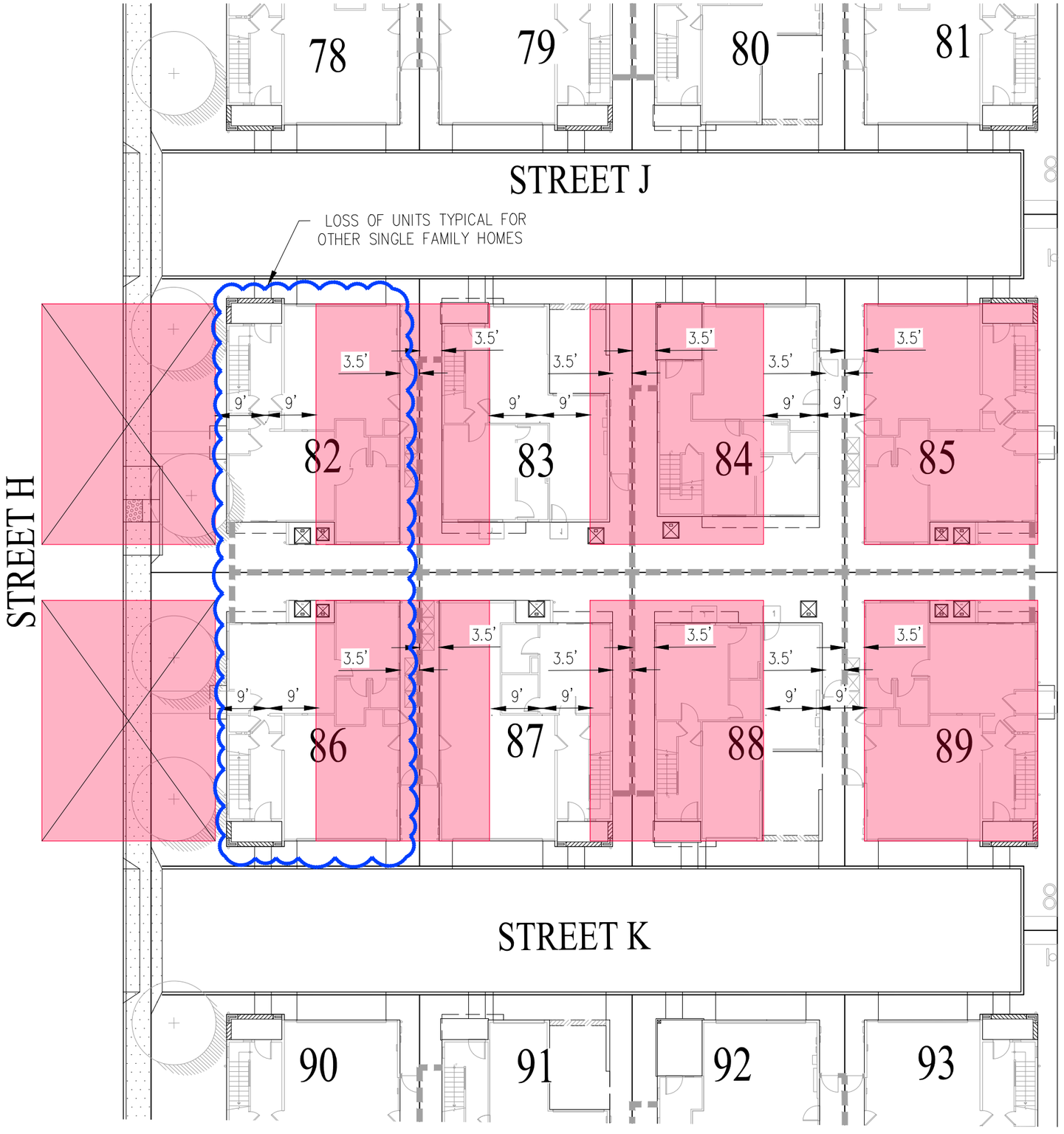

15. Minimum Side Yard Setback. SMC section 19.34.030 requires a minimum side yard setback of 6 feet, and Municipal Code section 19.34.080 states that the minimum side yard setback increases by 3 feet at each story above the first floor. TC III requests a waiver to allow side setbacks at all stories as small as 3.75 feet. Absent this waiver, side yards would need to be larger at each story. At the first story, larger setbacks would result in fewer lots and decreased density. Increased setbacks at the upper stories would result in larger first stories, which would require larger lots, resulting in fewer lots being able to fit on the Property and decreased density.

LEGEND

	DESCRIPTION
81	PROPOSED LOT NUMBER
	CITY OF SUNNYVALE 9' MIN 2-STORY SIDEYARD SETBACK 6' MIN + 3' PER STORY PER SMC 19.34.030 AND SMC 19.34.080 (SMU 19)
	LOSS OF UNITS

WAIVER #15

SUNNYVALE PARK PLACE

CITY OF SUNNYVALE SANTA CLARA COUNTY CALIFORNIA

SCALE: 1" = 20' DATE: FEBRUARY 2026

0' 20' 40'

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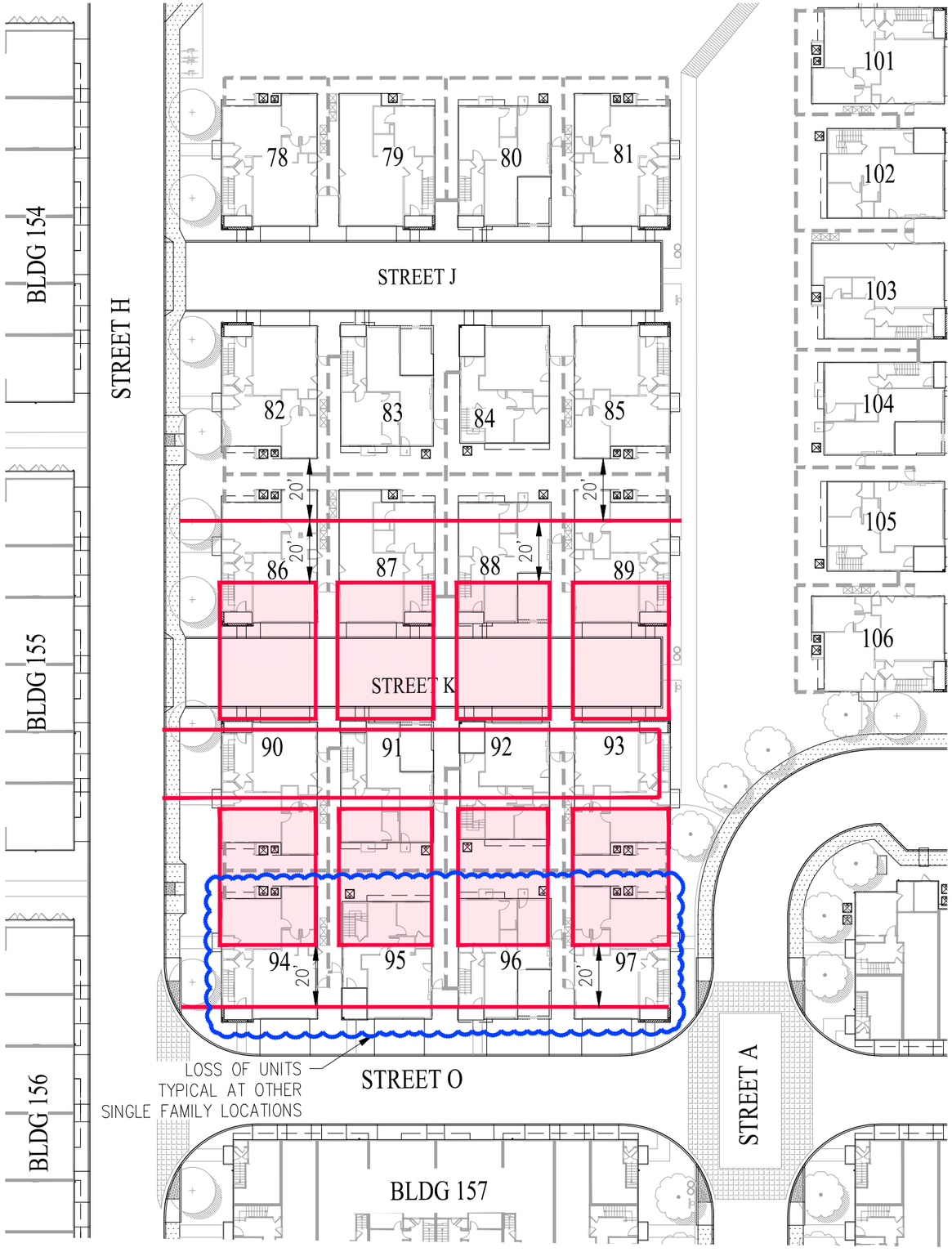

16. Minimum Rear Yard Setback. SMC section 19.34.030 requires a minimum rear yard setback of 20 feet. TC III requests a waiver to allow rear setbacks as small as two feet. Absent this waiver, rear yards would need to be larger, resulting in fewer lots and decreased density.

LEGEND

	DESCRIPTION
81	PROPOSED LOT NUMBER
	CITY OF SUNNYVALE 20' MIN REAR YARD SETBACK PER SMC 19.34.030 (SMU 20)
	LOSS OF UNITS

WAIVER #16

SUNNYVALE PARK PLACE

CITY OF SUNNYVALE SANTA CLARA COUNTY CALIFORNIA

SCALE: 1" = 40' DATE: FEBRUARY 2026

0' 40' 80'

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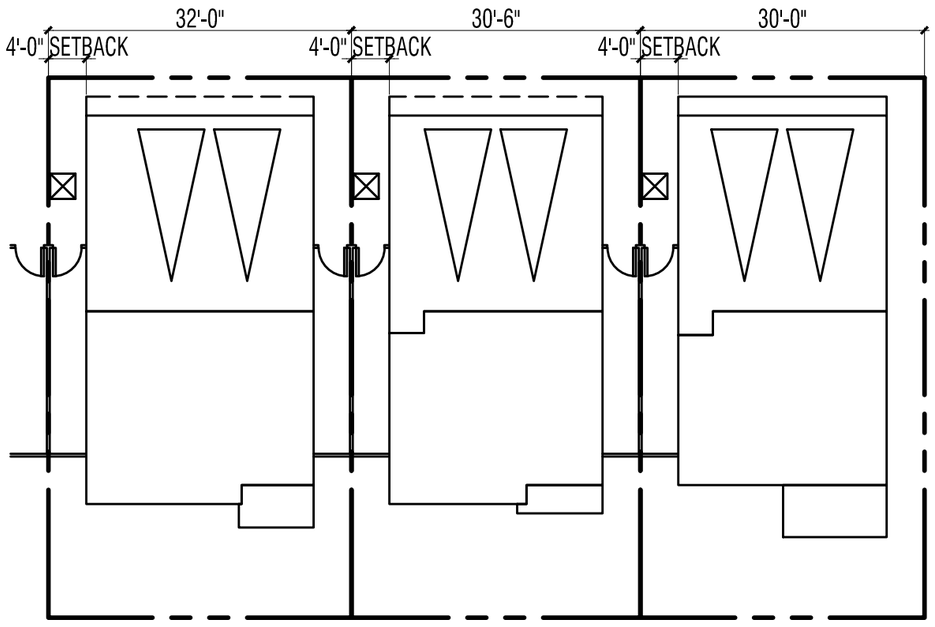
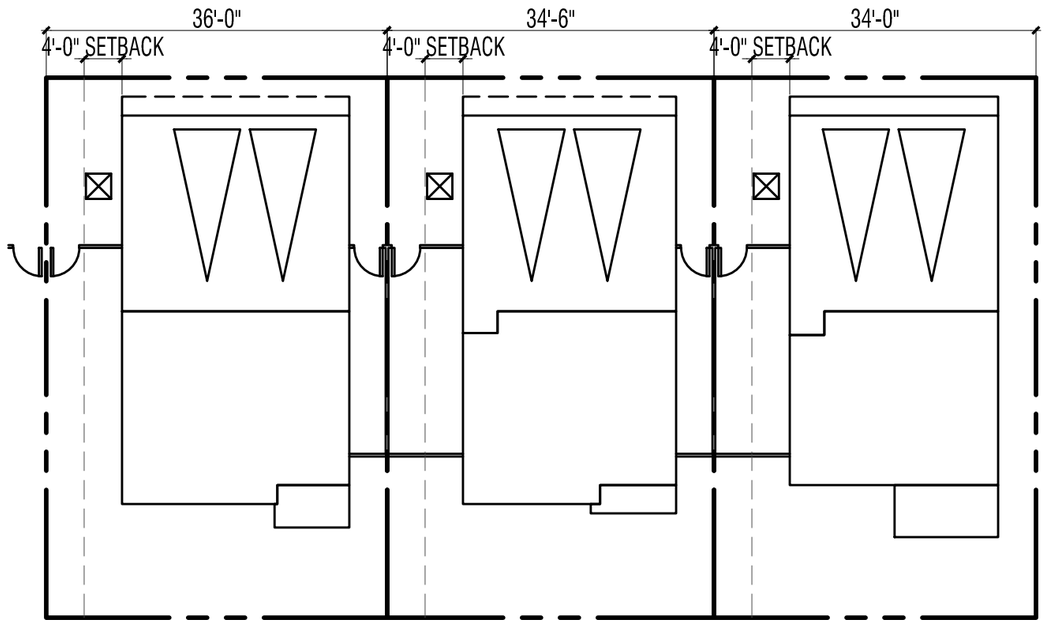


PROPOSED ALLEY HOME -
TYPICAL PLOTTING



ODS COMPLIANT ALLEY HOME -
WIDER LOTS REQUIRED

Mechanical Equipment. SMC Section 19.48.100 states any mechanical equipment that is higher than eighteen inches must meet the side and rear yard setbacks of the zoning district of the property where such equipment is located. As noted above, TC III has requested waivers for side and rear yard setbacks and will have air conditioning units taller than eighteen inches in those yards. TC III requests a waiver to allow such mechanical equipment in the reduced side and rear yards.

WAIVER EXHIBIT | Waiver #17: SUNNYVALE ZONING CODE 19.48.100

TIDEWATER
LENNAR

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