COUNCIL AGENDA: 03-04-08
ITEM: 11.2

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: February 15, 2008

COUNCIL DISTRICT: 8
SNI AREA: None

SUBJECT: PDC06-104. Planned Development Rezoning from the A-Agriculture District to the A(PD) Planned Development District to allow up to three single-family detached residences on a 2.69 gross acres site.

RECOMMENDATION

The Planning Commission voted 6-0-1 (Platten absent) to recommend approval of the subject Planned Development Zoning per staff's recommendations.

OUTCOME

Should the City Council approve the Planned Development Rezoning, up to three single-family detached residences may be built on the 2.69 gross acre site, consistent with the development standards specified for the subject rezoning. Future residences would be subject to a Planned Development Permit, subject to the approval by the Director of Planning, Building and Code Enforcement.

BACKGROUND

On February 13, 2008, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning. The Director of Planning, Building and Code Enforcement recommend approval of the rezoning with the associated development standards.

ANALYSIS & DISCUSSION

Gerry De Young with Ruth & Going gave a brief overview of the project. Maxine Lim, an adjacent resident on Gayley Place, spoke regarding the project. She indicated that she was neither for nor against the project, but she wanted to make sure the Commission was aware of the site elevations in comparison to the surrounding properties, and she wanted to highlight the privacy impacts that the development could potentially cause. Commissioner Campos noted that the many details showing how the project will be designed and how privacy concerns will be addressed at the Planned Development Permit stage. In his closing remarks, Gerry De Young noted that the proposed

development standards contain language that require future development to address potential privacy impacts resulting from the new homes. The public hearing was then closed.

Commissioner Zito stated that landscaping should be enhanced around the perimeter of the site to help address privacy of the adjacent residences. Staff confirmed for Commissioner Zito that the development standards, as proposed, would preclude development from the easterly portion of Lot 3.

Commissioner Jensen asked about the loss of foraging habitat from the proposed project. Staff responded that ample foraging habitat is present in the vicinity along Thompson Creek and in the east foothills. Commissioner Jensen recommended that green building standards be used for the new construction.

Commissioner Campos then made a motion to approve the proposed project, as recommended by staff, and stated that staff and the applicant need to take the neighbor's privacy concerns into account at the Planned Development Permit stage. The motion passed 6-0-1 with Commissioner Platten absent.

POLICY ALTERNATIVES

Should the City Council choose to deny the subject application, the site would remain in the A - Agriculture Zoning District. One single-family residence is a conditional use in the A – Agriculture Zoning District.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater. **(Required: Website Posting)**
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. A sign was posted on-site to notify the neighbors of the proposal and this staff report is also posted on the City's website. Staff has been available to respond to questions from the public. In addition, a community meeting was noticed to residents within 500 feet of the project site and was held during at the Silver Oaks Elementary School on November 19, 2007. The original staff report to the Planning Commission details the community's concerns.

COORDINATION

This project was coordinated with Public Works, Building Division, Fire Department, ESD and City Attorney.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan goals and policies as further discussed in attached staff report.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

The Director of Planning, Building, and Code Enforcement has found this project to be exempt from environmental review under Section 15303 (a) of the CEQA guidelines, as discussed further in staff's original report to the Planning Commission.

Jean Hamilton

FOR JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Jeannie Hamilton, Department of Planning, Building and Code Enforcement at 535-7850.

P.C. Agenda: **2/13/2008**
Item No. 4.c.

STAFF REPORT
PLANNING COMMISSION

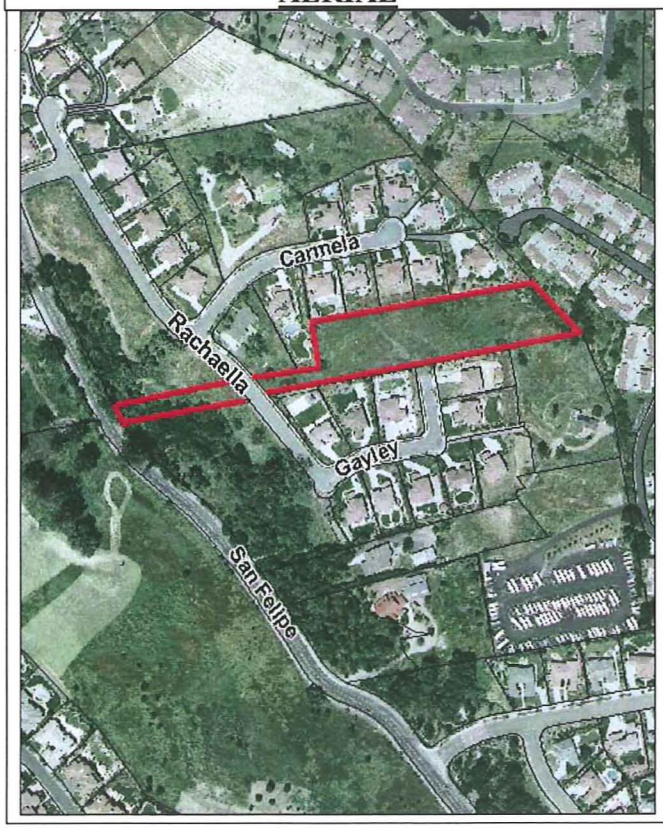
FILE NO.: PDC06-104 **Submitted: October 4, 2006**

PROJECT DESCRIPTION: Planned Development Rezoning from the A-Agriculture District to the A(PD) Planned Development District to allow up to three single-family detached residences on a 2.69 gross acres site

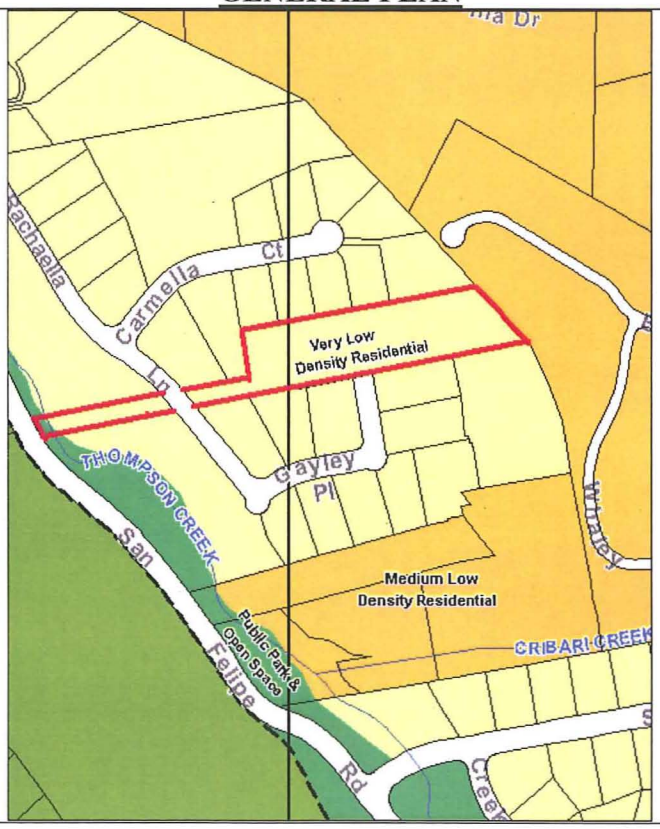
LOCATION: 0.63 acres are bounded between San Felipe Road and Rachaella Lane and approximately 2.06 acres are located north of Rachaella Lane at the terminus of Gayley Place.

Existing Zoning	A-Agriculture
Proposed Zoning	A(PD) Planned Development
General Plan	Very Low Density Residential (2 DU/AC)
Council District	8
Annexation Date	09/08/1977
SNI	None
Historic Resource	No
Redevelopment Area	No
Specific Plan	N/A
Owner	Superior Real Estate, LLC
Applicant's Contact	Gerry De Young

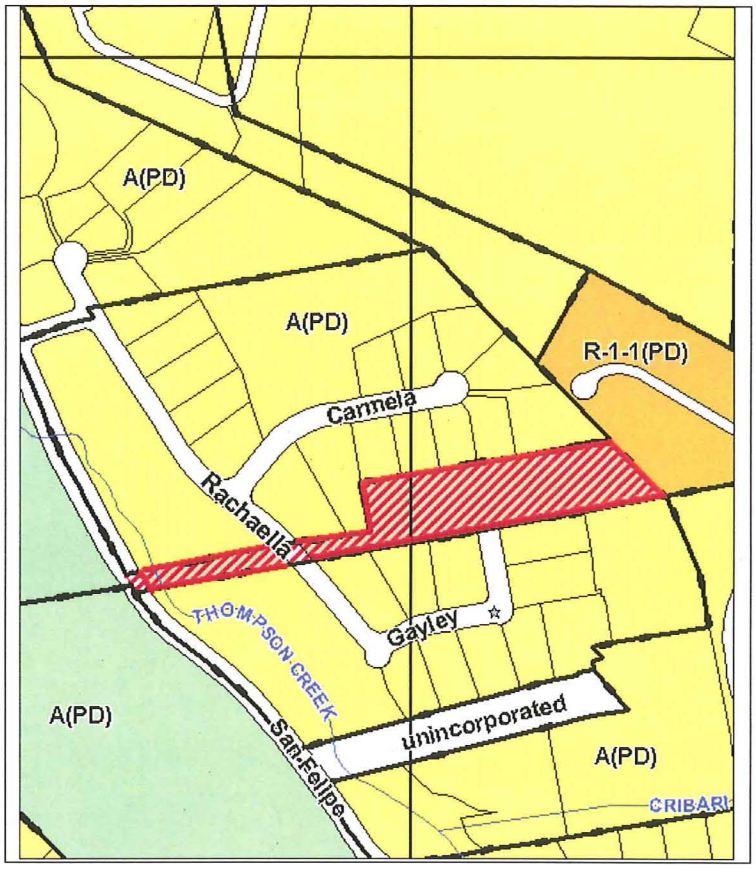
AERIAL



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the Planning Commission forward a recommendation of approval of the proposed Planned Development Rezoning to the City Council for the following reasons:

1. The proposed project is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Very Low Density Residential (2 DU/AC).
2. The proposed zoning is compatible with existing uses on the adjacent and neighboring properties.
3. The project conforms to the Evergreen Development Policy.
4. The project conforms to the Riparian Corridor Policy.
5. The proposed project is in conformance with the Residential Design Guidelines.

BACKGROUND & DESCRIPTION

This Planned Development Zoning application is to allow up to three single family detached residential units and approximately 0.63 acres of public open space on a 2.69 gross acre site at the terminus of Gayley Place. No development is proposed on the sliver of land between Rachaella Lane and San Felipe Road. Instead, this sliver shall be dedicated to the City in order

for the Parks Department to allow the continuation of the Thompson Creek trail. The General Plan states that subdivisions on sites with an average slope of 7% or greater should be rezoned to a Planned Development Zoning District. The project site has considerable slope, with gradients averaging between 16-19%. The Planned Development Zoning District allows more precise development standards which minimizes the need for grading and privacy impacts. An abandoned detention pond is located on the southeast corner of the site. Thompson Creek also transverses the site in the sliver of land between Rachaella Lane and San Felipe Road.

The application was filed on October 4, 2006. The project received geohazards clearance on August 15, 2007. An initial study was prepared by staff for the project, however after consultation with the California Department of Fish and Game in September of 2007, it was determined that a water feature on the southeast corner of the site was not a jurisdictional water. The project was deemed not to have a significant impact on any resources. As a result, the project was able to be deemed exempt from environmental review per the California Environmental Quality Act.

Staff received input from the community about concerns about the proposed development and a community meeting was held on November 19, 2007. The community provided substantial feedback regarding concerns about privacy impacts that could result from the subject project. As a result, staff worked with the applicant to revise the site plan and provide line-of-sight analysis to demonstrate that privacy impacts had been minimized. The project's overall improvements include using split pad design to create sensitive building massing adjacent to existing residences, reducing the proposed cul-de-sac bulb size and orientation, and lowering of pad elevations for Lots 2 and Lots 3.

ENVIRONMENTAL REVIEW

The proposed rezoning meets the criteria specified in Section 15303 (a) in that it will enable the development of three single family residences and will not result in any significant impacts which would require mitigation. The project will require the implementation of standard measures including: preconstruction surveys for burrowing owls, raptors, and bats; implementation of the conditions specified in the Geologic Hazards Clearance issued by the City Geologist on August 15, 2007; construction and post construction storm water control and treatment measures; and replacement of any trees removed on site in accordance with the City's standard replacement ratios. A discussion of the specific findings made to determine that the project will not have a significant impact on biotic follows.

Biotics

Water Features on Site

Thompson Creek runs through a panhandle portion of the project site that is separated from the larger site by Rachaella Lane. Development is proposed approximately 300 feet away from Thompson Creek. In addition, new development on this site will not drain towards the creek or be subject to flooding due to the distance of Thompson Creek and the fact that the larger project area is at a higher elevation than Thompson Creek. The project can be designed to avoid light trespass onto the riparian area of Thompson Creek.

There exists an abandoned detention basin on the southeast corner of the site that was constructed years ago to serve as a collector for storm water run-off from the adjacent Villages development. In the late 1960's or early 1970's, this basin was abandoned and currently all run-off from the Villages was rerouted into a different storm system. The conceptual grading and drainage plan demonstrates that the proposed limit of grading shall be approximately 75 feet from the water feature and will not alter it. On September 26, 2007 the project biologist, Melissa Denena of Live Oak and Associates, and Dave Johnston of the California Department of Fish and Game visited the site. The purpose of this site visit was to evaluate whether the water abandoned detention basin in the southeastern corner of the property would be considered jurisdictional water by the California Department of Fish and Game. It was determined by the project biologist and confirmed by the Department of Fish and Game that the onsite water feature is a remnant feature that does not receive significant flows, does not support aquatic life, does not replace the functions and values of a historic waterway, and appears to be isolated from other waters. With concurrence from the California Department of Fish and Game, it was determined that the California Department of Fish and Game will not exert jurisdiction over the abandoned detention basin in the southeast corner of the site.

Special species

According to the Biological Report, prepared by Live Oak Associates, dated April 23, 2007, four species, Cooper's hawk, white-tailed kite, burrowing owl, and loggerhead shrike could be impacted by the development on the site, in that the development would remove foraging habitat. However, the loss of this small area of foraging habitat would not be considered significant due to the abundance of foraging habitat in the area. The Biological Report states that standard measures for preconstruction surveys should be taken to ensure that these are not harmed, injured, or killed as a result of the development. The requirement for these preconstruction surveys shall be added to the Development Standards of this rezoning.

Tree Removals

There are currently 31 trees on the site, ranging from 1 inch to 26 inches in circumference; however only one tree (tree #70, Valley Oak) is ordinance sized through combination of its two trunks. It is unclear as to whether removal of any of the trees on the site is necessary as a result of proposed development. Staff will work at the Planned Development Permit to preserve as many trees as feasible, in particular the ordinance sized Valley Oak and other native trees. Removal of these trees would not be considered a significant impact. However, the project will be required to conform to the City's tree preservation ordinance, and will provide replacement trees in conformance with City policy. Replacement trees will be over and above the regular landscaping to be provided on the site.

GENERAL PLAN CONFORMANCE

The subject site is designated Very Low Density Residential (2 DU/AC) on the City of San José's 2020 General Plan Land Use/Transportation Diagram. The area being utilized for streets (0.21 acres) and the area to be dedicated to the City for parkland (0.63 acres) are not included in the density calculation. As such, the net acreage for the site is 1.85 acres and the proposal for 3 units on site results in a net density of 1.6 units per acre, consistent with the site's General Plan Land Use/Transportation Diagram designation.

PUBLIC OUTREACH

Signage has been posted at the site to notify the neighbors and public of the proposed rezoning. Notices of the public hearing before the Planning Commission and City Council were published in a local newspaper, posted on the City of San José website, and distributed to the owners and tenants of all properties located within 500 feet of the project site. This staff report was made available on the Planning Department's website one week prior to the Planning Commission hearing. Staff has been available to discuss the project with interested members of the public. In addition, a community meeting was noticed to residents within 500 feet of the project site and was held during at the Silver Oaks Elementary School on November 19, 2007.

The community raised a variety of concerns. Several individuals were under the impression that the subject property would always remain vacant. Residents immediately adjacent to the project site were concerned about privacy impacts from the placement of residences on the subject site, since the site is at a higher elevation then their properties. In addition, residents were concerned about construction impacts such as noise and dust and the security of the site during construction.

ANALYSIS

Site Design and Grading

It should be noted that the Residential Design Guidelines are technically not applicable to single-family development with lot sizes larger than 6,000 square feet; however, the site layout generally complies with the principles contained in the Residential Design Guidelines to ensure compatible unit relationships and proper integration into the surrounding neighborhood. In particular, the project utilizes lot sizes and unit designs that are comparable to the residential development surrounding the project site off of Carmella Court and Gayley Place.

Lot 1 is proposed to take access off Rachaella Lane and Lots 2 and 3 would front onto a new cul-de-sac bulb which would be constructed at the terminus of Gayley Place. Lot 1 would follow City Council Policy 6-19 for development of flag lots as closely as practical. In particular, development on Lot 1 will need to be oriented so that the entrance to the residence is visible from Rachaella Lane if grading and vehicular circulation permit this orientation.

The site has slope gradients averaging 16-18% on all three lots, with the overall site at higher elevations than existing residences to the north and south. The grading of Lots 2 and 3 are especially challenging because the cul-de-sac itself must be at a higher elevation than the existing Gayley Place in order to maintain water flow into the existing public street. This means that Lots 2 and 3 will inadvertently need to be higher than the existing lots directly to the south and north. As proposed, the pad for Lot 1 would be at an equal elevation to the pad of the existing residence directly north of it and just four feet higher than the pad of the existing residence directly south of it.

Lots 2 and 3 have a much larger vertical differential between the proposed pads and the pads of the existing residences. There are two site plan orientation options proposed on Lot 2. Both potential site plan orientations for Lot 2 would utilize a split pad design to minimize grading and the impact on adjacent residences. On Lot 2, the split pad has an 8-foot grade differential. The northerly pad would lie approximately 13 feet higher than the nearest residential pad to the north. The southerly pad would lie approximately 9 feet higher than the closest pad to the south. Lot 2 has two potential proposed lot orientations depending on whether the rear yard is to be located to the north or south

of the proposed residence. This alternative grading design is shown on page 5 of the plan set. The pad of Lot 3 is proposed to be 11.5 and 3.5 feet higher than the two pads to the north of it and 4.5 feet higher than the pad to the south of it.

The proposed lots are exceptionally wide, approximately 150 feet in length, which is beneficial to provide substantial separation between the proposed and existing residences. The proposed residences are a minimum of 60 feet and a maximum of 130 feet from the nearest existing residences. In addition, the proposed residences will abut only the rear yards of the existing residences, except for the existing lot facing Gayley Place, just south of Lot 3, which has a side-on interface with the proposed Lot 3. A line of sight analysis is included in the final plan set and demonstrates that privacy impacts to adjacent rear yards can be minimized. The line of sight analysis assumes that landscaping and fencing be strategically placed as well to minimize these viewshots. While the existing residences themselves would still be visible with the proposed pad locations, the substantial horizontal distance between the existing and proposed residences will reduce the visibility of adjacent rear yards and residences. Staff believes that eliminating the view shots of the existing residences themselves from the proposed residences is unrealistic given the existing topography.

The applicants expressed a desire to keep the development standards flexible, as they do not intend to build the units themselves, but instead anticipate that these lots will be sold as custom lots. Staff balanced the applicant's desire for flexibility with the need to create specific development standards that would provide privacy protections for the adjacent existing neighbors. While the applicant's proposal is conceptual, staff has added conditions to the General Development Plan notes to restrict the height of the proposed residences to 30 feet from the pad elevations. In addition, staff has added a condition that any subsequent Planned Development permit requires a line of sight analysis which provides as much or greater privacy protections for adjacent residences as the line of sight analysis demonstrated in the rezoning plan set.

Conformance to the Riparian Corridor Policy

The abandoned detention basin located in the southeast corner of the site was constructed several years ago to serve as a collector for storm water run-off from the adjacent Villages development (see environmental section above for more details). This basin actually does not fall under the purview the City's Riparian Corridor Policy Study because it is not a perennial or intermittent stream channel. Nonetheless, this project does not impact it, as the closest point of grading is located 60 feet away.

Thompson Creek transverses the portion of the site between Rachaella Lane and San Felipe Road. As mentioned previously, this sliver of land shall be designated as public open space with this rezoning and shall be dedicated to the City in order to support the continuation of the Thompson Creek trail. Thompson Creek is located approximately 300 feet away from the nearest lot proposed with this development. As a result, the project's meets the minimum 100 feet distance from riparian area called out in the Riparian Corridor Policy Study.

Conformance to the Evergreen Development Policy

The 1976 Evergreen Development Policy (EDP) ensured that the total number of existing and proposed dwelling units would be able to maintain acceptable traffic standards for the area. Subsequent revisions to the EDP in 1995 identified a total of 4,759 dwelling units that were to be included in a benefit assessment district to further fund infrastructural improvements. This parcel was included in this benefit assessment district and given allocation for 3 dwelling units. The

applicant shall pay fees to the Benefit Assessment District for traffic improvements in exchange for their ability to develop their allocated units.

Project Manager: Reena Mathew **Approved by:** Jean Hamilton **Date:** 2-6-08

Applicant's Contact	Attachments:
Gerry De Young Ruth and Going P.O. Box 26460 San José, CA 95159	General Development Plan Notes Exemption Public Works Memo Reduced Plan Set

PDC06-104
DRAFT GENERAL DEVELOPMENT PLAN NOTES

The following notes are to be incorporated on the final General Development Plan upon City Council Approval. These notes reflect the modifications recommended by the Planning Commission and shall replace all other notes, if any, currently identified on said plan(s).

ALLOWED USES:
Area east of Rachaella Lane:
Up to 3 single-family detached residential units. Residential uses shall include all those allowed by right in the R-1 Residential Zoning District.

Area west of Rachaella Lane:
Open space and/or trail

DEVELOPMENT STANDARDS:
Size/Setbacks/Height Requirements for Residential Development (all measurements in horizontal linear feet unless otherwise specified)

Minimum Lot Size
12,500 square feet for open space dedication
15,000 square feet for residential units

Maximum Height / Stories
Height- 30 feet from pad elevations
Stories- 2.5

Parking Requirement
Two (2) garage spaces per unit.

Setbacks for Lot 1
West (Front) (112.35' property line shared with Lot 16, Tract 9149)

Living Area and Garage	20'
Porch	15'
Detached Garage	10'

East (Rear) (Property line shared with Lot 2)

Living Area and Garage	20'
Patio Cover/Trellis	15'
Detached Garage	10'

North (Side) (Property line shared with Tract 9149)

Living Area	20'
Detached Garage	10'

South (Side) (Property line shared with Tract 9185)

Living Area	10'

Detached Garage	5'

Setbacks for Lot 2

Cul-de-Sac (Front) (Property line abutting the cul-de-sac and shared with Lot 3)

Living Area and Garage	20'
Porch	15'

West (Rear) (Property line shared with Lot 1)

Living Area and Garage	20'
Patio Cover/Trellis	15'
Detached Garage	10'

North and South (Side) (Property lines shared with Tracts 9149 and 9185)

Living Area and Garage 2-story	30'
Living Area and Garage 1-story	20'
Detached Garage	10'

Setbacks for Lot 3

Cul-de-Sac (Front) (Property line abutting the cul-de-sac and shared with Lot 2)

Living Area and Garage	20'
Porch	15'

East (Rear) (Property line shared with Tract 5539)

Living Area and Garage	180'
Patio Cover/Trellis	180'
Detached Garage	180'

North (Side) (Property line shared with Tract 9149)

Living Area and Garage 2-story	30'
Living Area and Garage 3-story	20'
Detached Garage	10'

South (Side) (Property line shared with Tract 9185)

Living Area and Garage	10'
Detached Garage	5'

Grading of Lot 3

Shall be limited to within a distance of 130 feet from the nearest point on the front property line.

Accessory Structures.

Accessory structures must be located on the flat graded pad areas approved as part of the Planned Development Permit(s) for each residential unit and are subject to the review and discretion of the Director of Planning, Building, and Code Enforcement.

Additions

All additions are subject to the review of the Director of Planning, Building, and Code Enforcement.

Attached Porches / Trellis

Shall be setback the same as living area setbacks unless otherwise specified.

Line of Sight

In addition to meeting the minimum development standards specified above, the proposed residences on Lots 1-3 shall have lines of sight which are equal to or have less of a privacy impact on adjacent rear yards as depicted on sheet 6 of the final plan set entitled "cross-sections and line of sight" to the satisfaction of the Director of Planning. Revised line of sight drawings are required at the Planned Development Permit stage to minimize visibility into adjacent rear yards.

Location of Public Streets

Minor modifications to the final location and dimensions of the public streets may be permitted at the PD Permit stage to reduce grading impacts and use of retaining walls as determined appropriate to the satisfaction of the Director of Planning and Director of Public Works.

Raptors

If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

Burrowing Owls

The developer shall have a qualified biologist conduct a survey and prepare a report not more than one month prior to construction activities to determine the presence of burrowing owls on the site. If owls are present on the site, a mitigation program shall be developed in conformance with the requirements of the California Department of Fish and Game and the U.S. Wildlife Service. If mitigation includes relocation, owls shall not be relocated during the nesting season (March though August). Prior to the issuance of any grading or building permits, the developer shall submit a biologist's report to the City's Environmental Principal Planner to the satisfaction of the Director of Planning indicating that no owls were found on the site or that owls were present and that mitigation has been implemented in conformance with the requirements of the above regulatory agencies.

Assessments.

This project is located within the boundaries of Benefit Assessment District 91-209SJ which specifies the number of residential units allocated to undeveloped properties in the Evergreen

Area. According to the district, 3 residential units have been allocated to assessor's parcel number 660-72-020. The assessment is due prior to approval of the parcel or final map. The assessment is $8,250.89 and is adjusted annually each February 1 based on the construction cost index for the San Francisco Bay Area.

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) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.

a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.

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

c) 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 the 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.

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

STATEMENT OF EXEMPTION

FILE NO.	PDC06-104
LOCATION OF PROPERTY	Located on the Terminus of Gayley Place and east of San Felipe Road
PROJECT DESCRIPTION	Planned Development Rezoning from A-Agriculture Zoning District to A (PD) Planned Development Zoning District on a 2.69 acre site to allow 3 single family residences and retain approximately 0.63 acres of open space.
ASSESSOR'S PARCEL NUMBER	660-72-020

CERTIFICATION

Under the provisions of Section 15303 (a)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.

15303. New Construction or Conversion of Small Structures

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:
(a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

The proposed rezoning meets the criteria specified in Section 15303 (a) as it will enable the development of three single family residences and will not result in any significant impacts which would require mitigation. The project will require the implementation of standard measures

including: preconstruction surveys for burrowing owls, raptors, and bats; implementation of the conditions specified in the Geologic Hazards Clearance issued by the City Geologist on August 15, 2007; construction and post construction storm water control and treatment measures; and replacement of any trees removed on site in accordance with the City's standard replacement ratios. Below discusses specifically the findings made to determine that the project will not have a significant impact on biotics.

Biotics-

Water Features on Site. Thompson Creek runs through a panhandle portion of the project site which is separated from the larger site by Rachella Lane. Any development is proposed approximately 300 feet away from Thompson Creek. In addition, new development on this site will not drain towards the creek or be subject to flooding due to the distance of Thompson Creek and that the larger project area is at a higher elevation than Thompson Creek. The project can be designed, through following the Residential Design Guidelines and the Riparian Corridor Riparian Study, to be oriented in such a manner that light trespass on to the riparian area of Thompson Creek does not occur.

There exists a water feature on the southeast corner of the site was constructed years ago to serve as a collector for storm water run-off from the adjacent Villages development. In the late 1960's or early 1970's, this feature was abandoned and currently all run-off from the Villages was rerouted into a different storm system. The conceptual grading and drain plan demonstrates that the proposed limit of grading shall be approximately 75 feet from the water feature and will not alter it. On September 26, 2007 the project biologist, Melissa Denena of Live Oak and Associates, and Dave Johnston of the California Department of Fish and Game visited the site. The purpose of this site visit was to evaluate whether the water feature in the southeastern corner of the property would be considered jurisdictional water by the California Department of Fish and Game. It was determined by the project biologist and confirmed by the Department of Fish and Game that the onsite water feature is a remnant feature that does not receive significant flows, does not support aquatic life, does not replace the functions and values of a historic waterway, and appears to be isolated from other waters. With concurrence from the California Department of Fish and Game, it was determined that, the California Department of Fish and Game will not exert jurisdiction over the feature in the southeast corner of the site.

Special species. According to the Biological Report, prepared by Live Oak Associates, dated April 23, 2007, four species, Cooper's hawk, white-tailed kite, burrowing owl, and loggerhead shrike could be impacted by the development on the site, in that the development would remove foraging habitat. However the loss of this small area of foraging habitat would not be considered significant due to the abundance of foraging habitat in the area. The Biological Report states that standard measures for preconstruction surveys should be taken to ensure that these are not harmed, injured, or killed as a result of the development. These preconstruction surveys shall be added to the Development Standards of this rezoning.

Tree Removals. There are currently 31 trees on the site, ranging from 1 inch to 26 inches in circumference; however only one tree (tree #70, Valley Oak) is ordinance sized through combination of its two trunks. It is unclear as to whether removal of any of the trees on the site is necessary as a result of proposed development. Staff will work at the Planned Development Permit to preserve as many trees, in particular the ordinance sized Valley Oak and other native trees, as is feasible. Removal of these trees would not be considered a significant impact. However, the project will be required to conform to the City's tree preservation ordinance, and will provide replacement trees in conformance with City policy. Replacement trees will be over and above the regular landscaping to be provided on the site.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Date: 1/14/08

Akoni Danielsen
Deputy

Project Manager: Reena Mathew

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: Reena Mathew
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

SUBJECT: **FINAL RESPONSE TO DEVELOPMENT APPLICATION**

DATE: 09/25/07

PLANNING NO.:	PDC06-104
DESCRIPTION:	Planned Development Rezoning from the A Agriculture District to the A(PD) Planned Development District to allow up to three single-family detached residences on a 2.69 gross acres site
LOCATION:	East side of San Felipe Road, approximately 600 feet southerly of Silver Oak Street
P.W. NUMBER:	3-18149

Public Works received revised plans for the subject project and submits the following comments and requirements.

Project Conditions:

Public Works Approval of Parcel Map or Tract Map: Prior to the approval of the Tract or Parcel Map 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.

1. **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 to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

2. **Transportation**: The proposed project is within Benefit Assessment District 91-209SJ (Aborn-Murillo), but outside of the Evergreen Specific Plan (ESP) Area. This property has traffic allocation for 3 dwelling units, which is consistent with the proposed project. Therefore, no further traffic analysis is required.

3. **Grading/Geology:**
   a) A Geological Hazard Clearance was issued on 8/15/07. The applicant shall conform to the conditions stated on the clearance letter.
   b) A grading permit is required prior to the issuance of a Public Works Clearance.
   c) 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.

d) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

4. **Stormwater Runoff Pollution Control Measures**: **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) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.

   a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.

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

   c) 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 the 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.

5. **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.

6. **Sanitary**: Provide sanitary sewer plan at PD permit stage.

7. **Municipal Water**: In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Tim Town at (408) 277-3671 for further information.

8. **Parks:** In accordance with the Parkland Dedication and Park Impact Ordinances (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.

9. **Assessments**: This project is located within the boundaries of Benefit Assessment District 91-209SJ which specifies the number of residential units allocated to undeveloped properties in the Evergreen Area. According to the district, 3 residential units have been allocated to assessor's parcel number 660-72-020. The assessment is due

prior to approval of the parcel or final map. The assessment is $8,250.89 and is adjusted annually each February 1 based on the construction cost index for the San Francisco Bay Area.

10. **Street Improvements**:
    a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
    b) Remove and replace broken or uplifted curb, gutter, and sidewalk along Rachaella Lane frontage.
    c) Eliminate weed in parkstrip and install turf or groundcover along Rachaella Lane frontage.
    d) Construct curb, gutter, sidewalk and pavement section for the proposed Gayley Place cul-de-sac.
    e) Dedication and improvement of Rachaella Lane and Gayley Place to the satisfaction of the Director of Public Works.
    f) Construct driveways per City standards.
    g) 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. (To assist the Applicant in better understanding the potential cost implications resulting from these requirements, existing pavement conditions can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 20 working days.)

11. **Complexity Surcharge (In-Fill)**: This project has been identified as an in-fill project, and based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.

12. **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.

13. **Street Trees**:
    a) 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. Obtain a DOT street tree planting permit for any proposed street tree plantings.
    b) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
    c) Contact the City Arborist at (408) 277-2756 for the designated street tree.

18. **Referrals**: This project should be referred to Santa Clara Valley Water District.

Please contact the Project Engineer, Vivian Tom, at (408) 535-6819 if you have any questions.

Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division

ES:vt
6000_26309191096.DOC

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY, APPROXIMATELY 0.63 ACRES BOUNDED BETWEEN SAN FELIPE ROAD AND RACHAELLA LANE AND APPROXIMATELY 2.06 ACRES ARE LOCATED NORTH OF RACHAELLA LANE LAND AT THE TERMINUS OF GAYLEY PLACE, TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, a Statement of Exemption was prepared for a rezoning project under File No.PDC06-104, and said Exemption was approved by the Director of Planning on January 14, 2008; and

WHEREAS, the Council is the decision-making body for the proposed subject rezoning to A(PD) Planned Development; and

WHEREAS, this Council has considered the Statement of Exemption prepared for this proposed rezoning prior to taking any action on this project; and

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as A(PD) Planned Development.

The base district zoning of the subject property shall be A-Agricultural. The PD zoning of the subject property shall be that development plan for the subject property entitled, "Green Acres Estates," **last revised May 8, 2007**.

Said General Development Plan is on file in the office of the Director of Planning and is available for inspection by anyone interested therein, and said General Development Plan is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 2. The district map of the City is hereby amended accordingly.

SECTION 3. The land development approval that is the subject of City File No. PDC06-104 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined 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 by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this day of , 2008 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

cc:

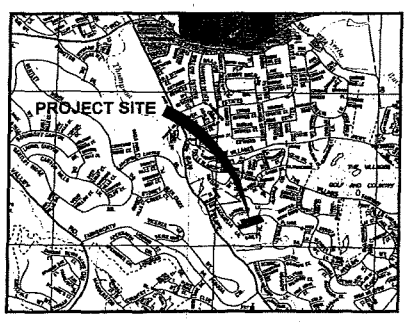
GENERAL DEVELOPMENT PLAN - EXHIBIT "C"
PLANNED DEVELOPMENT ZONING
GREEN ACRES ESTATES
WITHIN THE CITY OF SAN JOSE
PDC 06-104

STATEMENTS AND TABLES

SITE AREA	2.69 ACRES GROSS 2.48 ACRES NET
APN INFORMATION	660-72-020
EXISTING GP LAND USE DESIGNATION	VERY LOW DENSITY RESIDENTIAL (2 DU/AC)
EXISTING ZONING	A
PROPOSED ZONING	A(PD)
PROPOSED DENSITY	1.1 DU/AC MAX
MAXIMUM NO. OF DWELLING UNITS	3 SINGLE FAMILY DETACHED

PROJECT TEAM

DEVELOPER:	SUPERIOR REAL ESTATE DEVELOPMENT AND INVESTMENT, LLC.
PLANNING/CIVIL ENGINEERING:	RUTH AND GOING, INC PO BOX 26460 SAN JOSE, CA 95159-6460 408-236-2400 CONTACT: GERRY DE YOUNG



VICINITY MAP
NTS

TABLE OF CONTENTS

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4	CONCEPTUAL GRADING AND DRAINAGE PLAN AND CONCEPTUAL STORM WATER CONTROL PLAN
5	CONCEPTUAL SITE PLAN
6	CROSS SECTIONS AND LINE-OF-SIGHT

DEVELOPMENT SCHEDULE

ESTIMATED CONSTRUCTION START	FALL	2008
ESTIMATED COMPLETION DATE	SUMMER	2009

PLAN SET REVISIONS

Date	Description
10-04-06	INITIAL SUBMITTAL
12-12-07	REVISION

R+G
ENGINEERS and PLANNERS
Ruth and Going, Inc

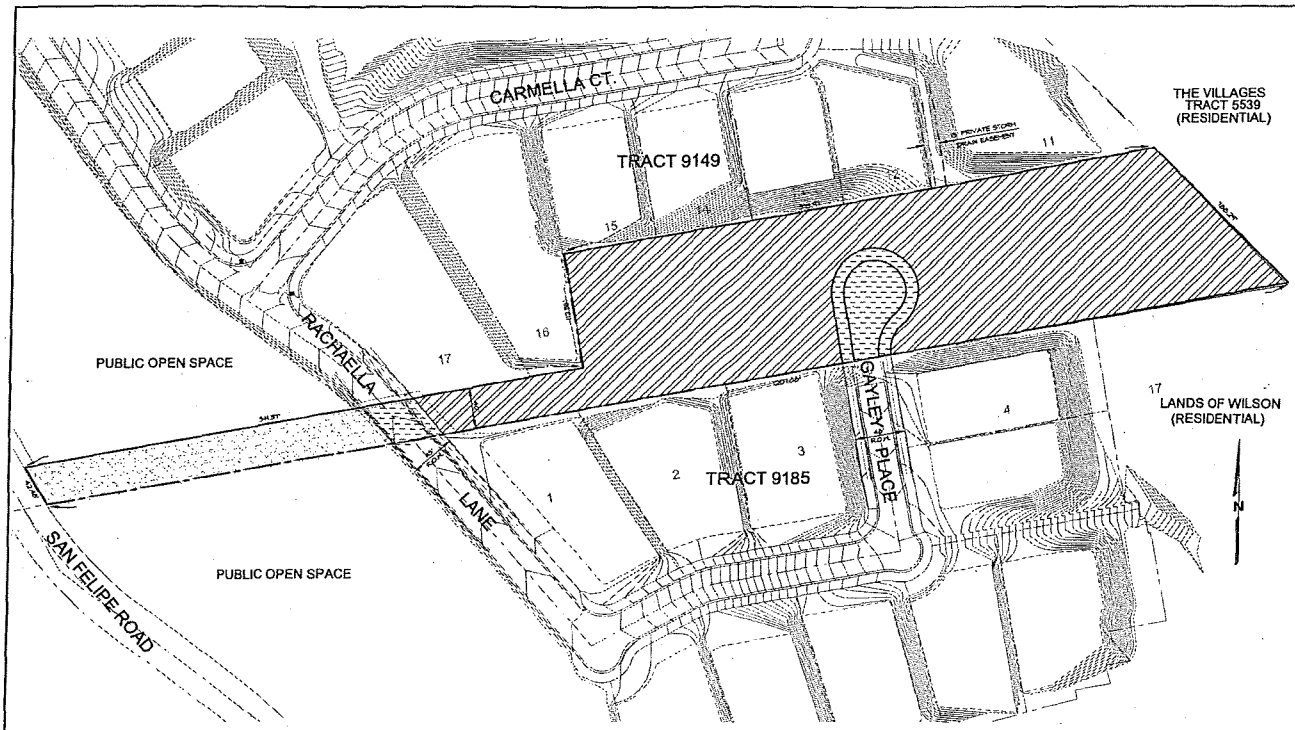
GENERAL DEVELOPMENT PLAN-EXHIBIT "C"
TITLE SHEET
GREEN ACRES ESTATES
SAN JOSE CALIFORNIA

Scale: N.T.S. Date: 10-04-06

DATE	BY	DESCRIPTION

General Development Plan-Exhibit C
PDC No. 06-104

JOB NUMBER
99-597A



GENERAL NOTES

SYMBOL	LAND USE CATEGORY	AREA	NUMBER OF UNITS
	SINGLE FAMILY DETACHED RESIDENTIAL	1.85 AC	3
	PUBLIC STREET	0.21 AC	
	OPEN SPACE	0.63 AC	

40' 0 20' 40' 80'
1" = 40'

PERMITTED USES:

1) Residential Area: Those uses permitted by right in the R-1 zoning District shown on Table 20-5- under the headings of Residential Uses and Residential Accessory Uses and Improvements.

2) Open Space Area: None.

DEVELOPMENT STANDARDS:

1) Development Standards for all new structures shall comply with the requirements for the R-1-5 Zoning District as articulated in Part B of Chapter 20.30 of the Zoning Ordinance.

2) Off-Street parking shall comply with section 20.90.60 of the Zoning Code.

NOTE:

1) EXACT ALIGNMENT OF CUL-DE-SAC TO BE DETERMINED AT THE PD PERMIT STAGE, TO THE SATISFACTION OF THE DIRECTORS OF PLANNING AND PUBLIC WORKS.

Designed
Drawn
Checked
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Description	Mark	Date	By

Revisions

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Civil Engineering Land Surveying
2516 Tel Aviv Avenue Suite 100 Santa Clara, CA 95050
TEL (408) 236-2100 FAX (408) 236-2110

GENERAL DEVELOPMENT PLAN - EXHIBIT "C"

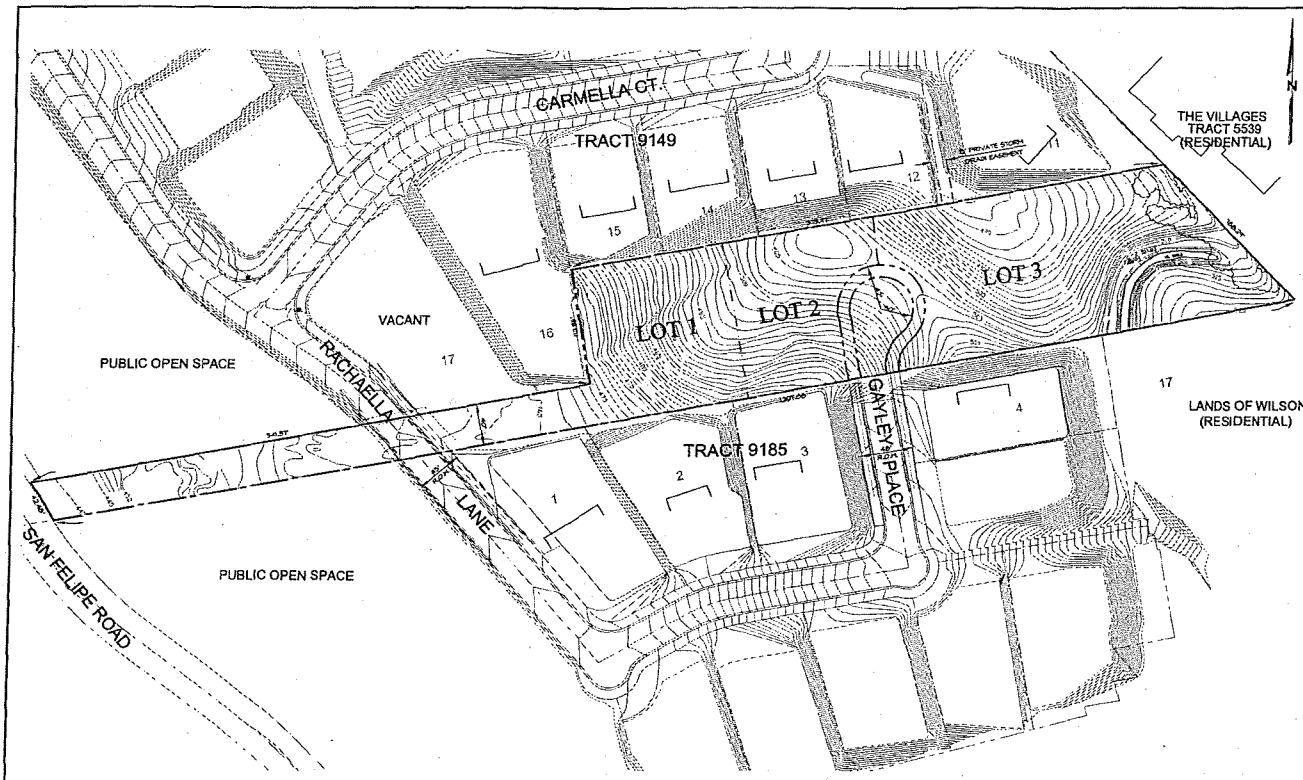
LAND USE PLAN

Scale 1"=40'
Date 05-08-07

2 of 6 Sheets

Job No. 99067a
Drawing land use plan

NOTICE



40' 0 20' 40' 60'
1" = 40'

NOTE:

U EXACT ALIGNMENT OF GA-DE-SAC TO BE DETERMINED AT THE PD PERMIT STAGE, TO THE SATISFACTION OF THE DIRECTORS OF PLANNING AND PUBLIC WORKS.

GENERAL NOTES

Site Topography compiled from aerial survey commissioned through HHH, Inc. for Tract 9149.

The project boundary as shown on this map was compiled from Record of Survey Map recorded in Book 654 Page 11. No boundary survey was performed by Ruth and Going, Inc. as part of this project.

Adjacent boundary lines as shown to the north of the project site were compiled from available record data consisting of Tract 9144 as proposed by HHH, Inc.

Adjacent boundary lines as shown to the south of the project site were compiled from available record data consisting of a Tentative Map on the Lands of Stadtmiller, City Permit No. PT 98-09-058 by HHH, Inc.

Designed	Description	Mark	Date	By
Drawn				
Checked				

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2311 THE ALAMEDA SANTA CLARA, CA 95050
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GENERAL DEVELOPMENT PLAN - EXHIBIT "C"

CONCEPTUAL SITE PLAN

Scale 1"=40'

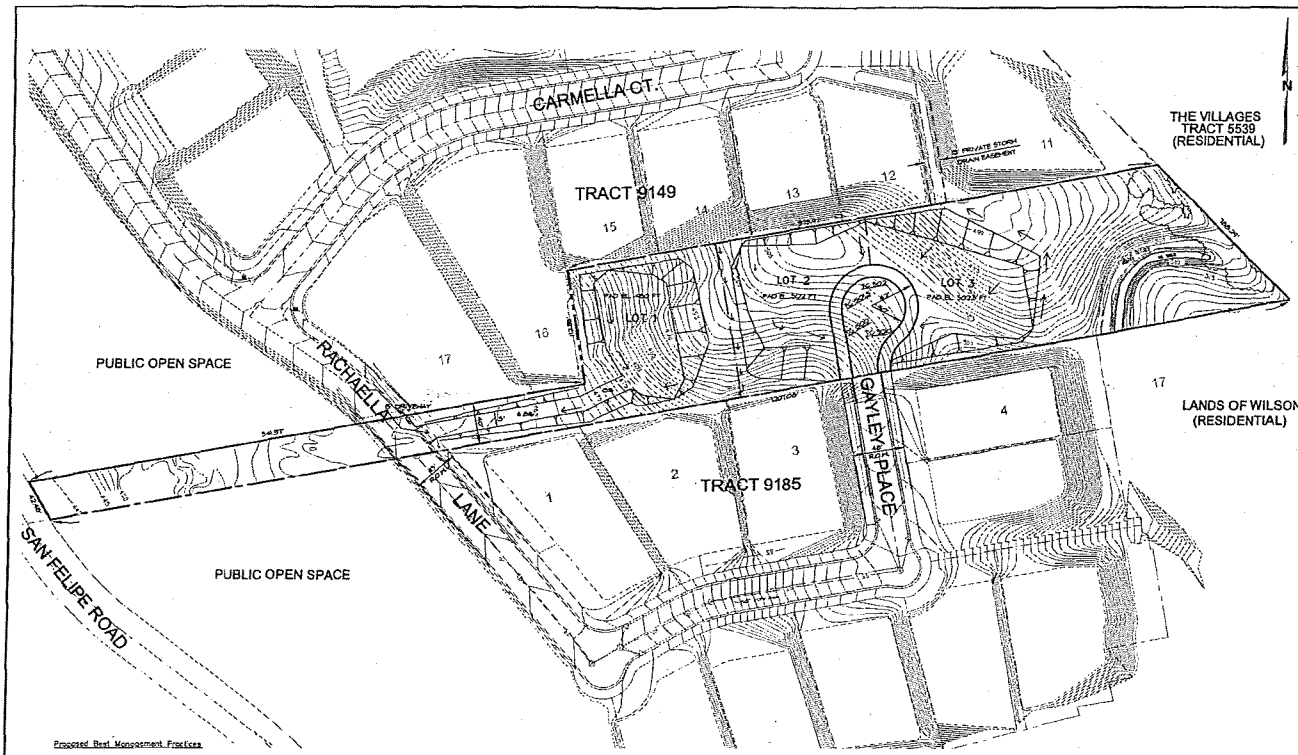
Date 05-08-07

3 of 6 Sheets

Job No. 99097A

Drawing concept site plan

NOTICE



Proposed Best Management Practices

As a part of the preparation and processing of a PD Permit for development of a single family house on each of the three (3) lots, the Developer shall incorporate storm water control measures into the project. These measures should consist of a combination of source control and treatment control BMPs (Best Management Practices) as outlined in the 4New Development and Redevelopment Handbook4 published by the California Stormwater Quality Association (CASQA), and the 4C.3 Stormwater Handbook4 published by the Santa Clara Valley Urban Runoff Pollution Prevention Program.

The PD Permit should consider BMPs that include both volume based and flow based features, both landscape based and mechanical units. These measures could include, but are not limited to vegetated swales, vegetated buffer strips, flow through planter boxes, and mechanical units such as vortex separators (located either on-site or within the public street) or filter units (located on-site only). An example of site design based measures could be porous pavement in hardscape areas such as driveways or patios.

The Storm Water Control Plan for the PD Permit shall include numeric sizing for all proposed BMPs. The sizing criteria shall be in accordance with Attachment N-1 of the C.3 Stormwater Handbook.

Because the site is less than 20 acres, incorporation of Hydromodification Management Plan (HMP) is not required for this project.

GENERAL NOTES

Site Topography compiled from aerial survey commissioned through HHH, Inc. for Tract 4641.

The project boundary as shown on this map was compiled from Record of Survey Map recorded in Book 454 Page 2. No boundary survey was performed by Ruth and Going, Inc. as part of this project.

Adjacent boundary lines as shown to the north of the project site were compiled from available record data consisting of Tract 4641 as proposed by HHH, Inc.

Adjacent boundary lines as shown to the south of the project site were compiled from available record data consisting of a Tentative Map on the Lands of Stockbridge, City Permit No. PT 99-09-055 by HHH, Inc.

Revisions			
Mark	Date	Description	By
	09/16/07	Added BMP Notes	MG

MG
Engineer
Designed
Drawn
Checked

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GENERAL DEVELOPMENT PLAN - EXHIBIT "C"

CONCEPTUAL GRADING AND DRAINAGE PLAN / CONCEPTUAL STORM WATER CONTROL PLAN

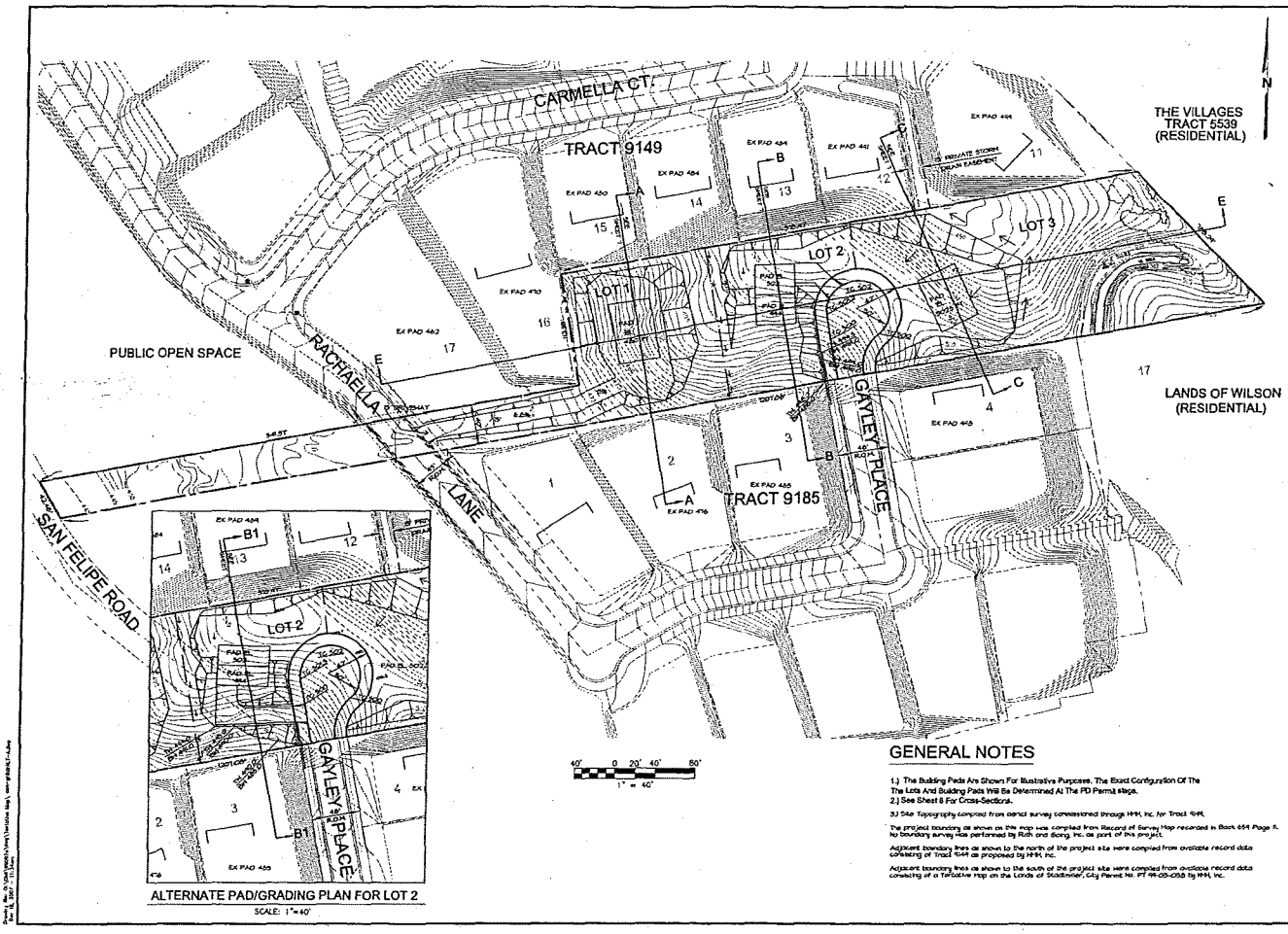
Scale 1"=40'

Date 05-05-07

4 of 6 Sheets

Job No. 99387A

Drawing CONGRAD-S45



ALTERNATE PAD/GRADING PLAN FOR LOT 2

SCALE: 1"=40'

GENERAL NOTES

1.) The Building Pads Are Shown For Illustrative Purposes. The Exact Configuration Of The The Lots And Building Pads Will Be Determined At The PD Permit stage.
2.) See Sheet 8 For Cross-Sections.

3.) Site Topography compiled from aerial survey commissioned through HHH, Inc. for Tract 9149.

The project boundary as shown on this map was compiled from Record of Survey Map recorded in Book 654 Page 8. No boundary survey was performed by Ruth and Going, Inc. as part of this project.

Adjacent boundary lines as shown to the north of the project site were compiled from available record data consisting of Tract 9149 as proposed by HHH, Inc.

Adjacent boundary lines as shown to the south of the project site were compiled from available record data consisting of a Tentative Map on the Lands of Stadtmiller, City Permit No. PT 94-03-058 by HHH, Inc.

Designed
Drawn
Checked

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Description	Mark	Date	By

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GENERAL DEVELOPMENT PLAN - EXHIBIT "C"

CONCEPTUAL SITE PLAN

Scale 1"=40'

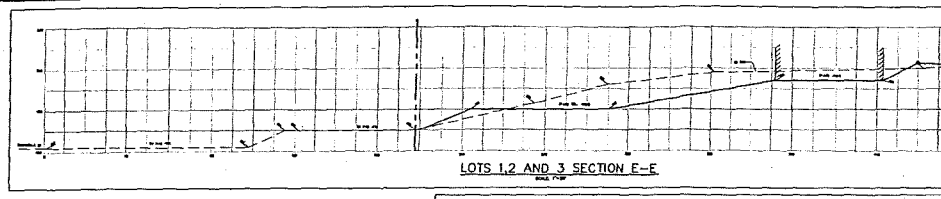
Date 05-08-07

5 of 6 Sheets

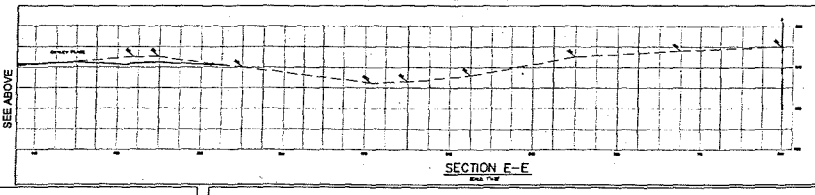
Job No. 99097A

Drawing con grad/sh ALT-A

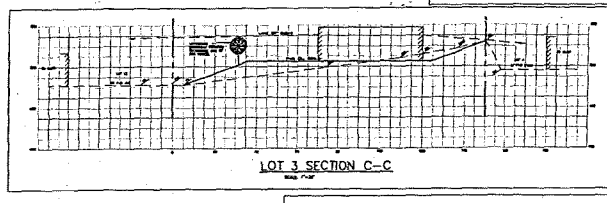
NOTICE



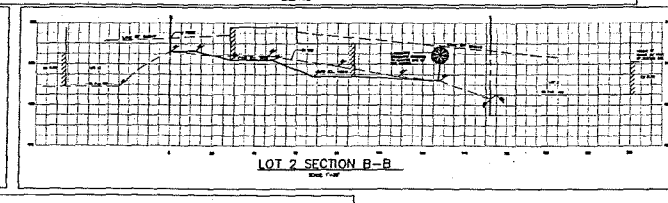
LOTS 1,2 AND 3 SECTION E-E



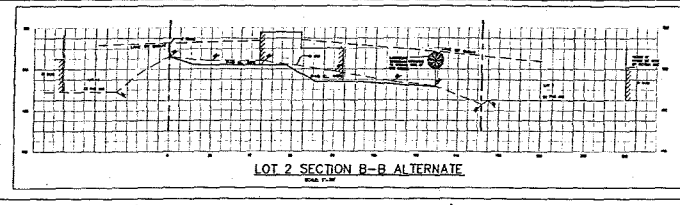
SECTION E-E



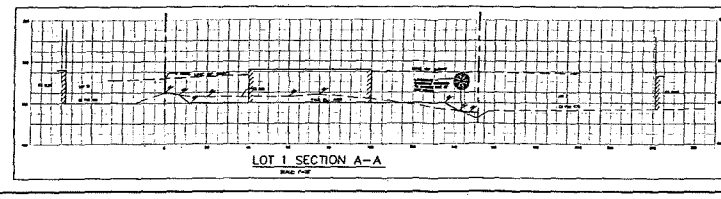
LOT 3 SECTION C-C



LOT 2 SECTION B-B



LOT 2 SECTION B-B ALTERNATE



LOT 1 SECTION A-A

Designed
Drawn
Checked

Revisions

Description | Mark | Date | By

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GENERAL DEVELOPMENT PLAN - EXHIBIT "C"

CROSS SECTIONS AND LINE OF SIGHT

Scale

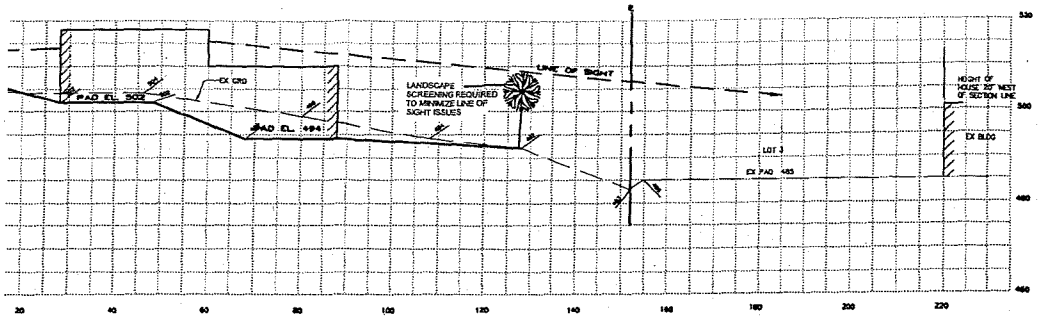
Date 12-5-07

6 of 6 Sheets

Job No. 92097A

Drawing CROSSECT.

NOTICE



LOT 2 SECTION B-B

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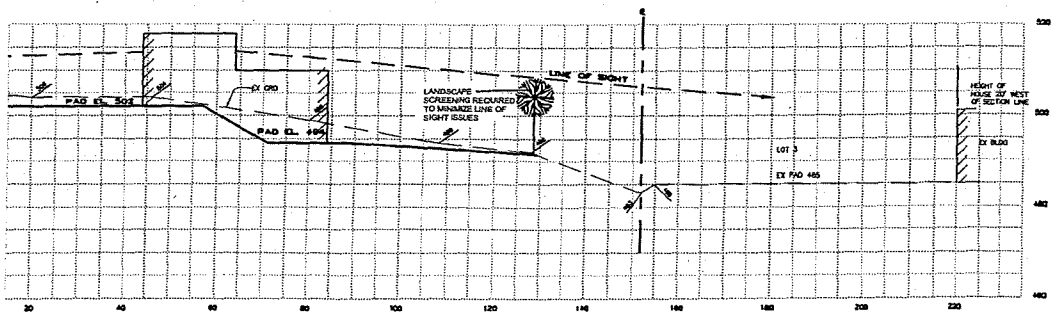

LOT 2 SECTION B-B ALTERNATE

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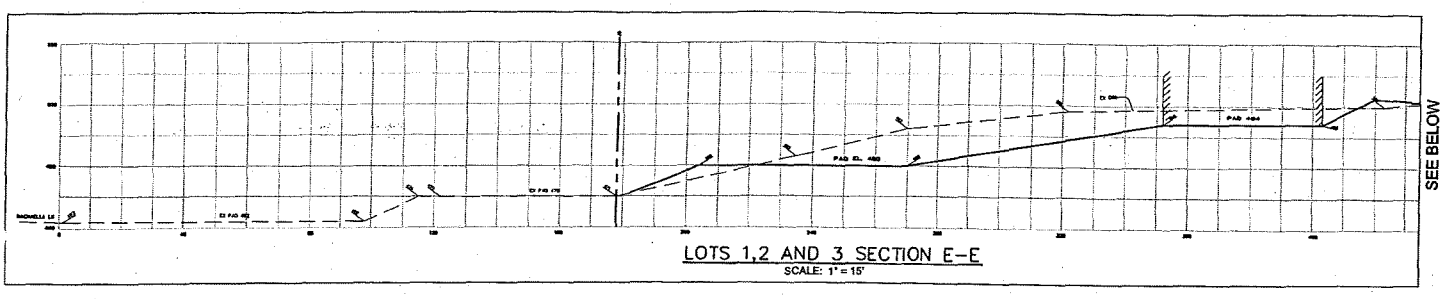
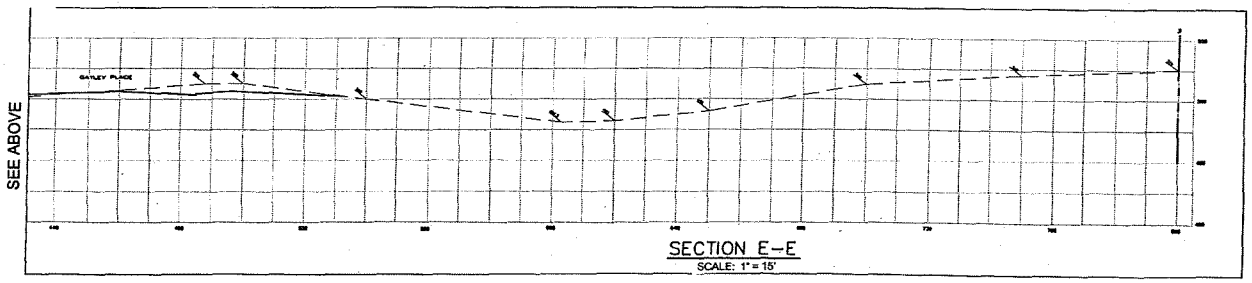


LOTS 1,2 AND 3 SECTION E-E

SCALE: 1" = 15'



SECTION E-E

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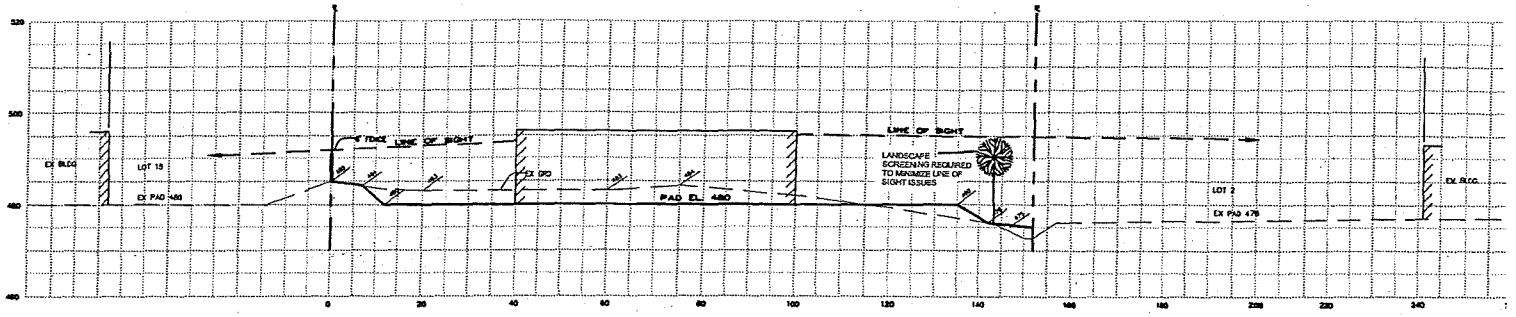
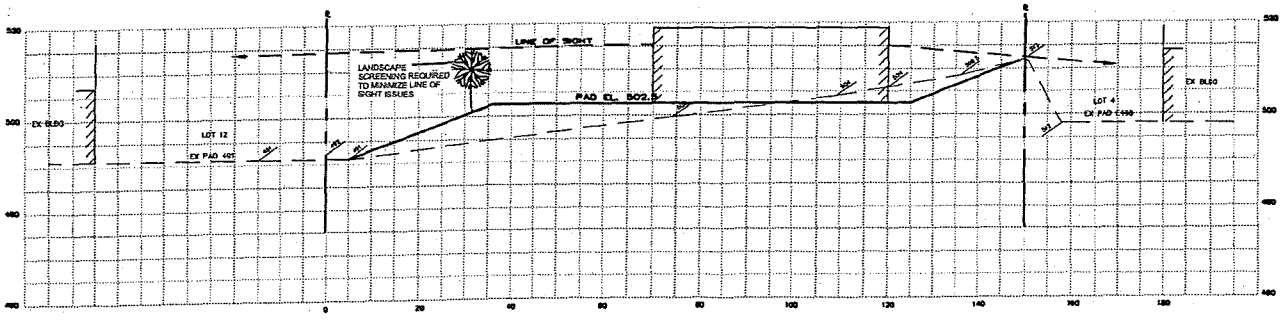


LOT 1 SECTION A–A

SCALE: 1"=20'



LOT 3 SECTION C–C

SCALE: 1"=20'