COUNCIL AGENDA: 08-28-07
ITEM: 11.4

SUPPLEMENTAL

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: August 24, 2007

Approved [signature] Date 8/27/07

COUNCIL DISTRICT: 6
SNI AREA: N/A

SUPPLEMENTAL MEMO

SUBJECT: PDC05-122. PLANNED DEVELOPMENT REZONING PERMIT TO ALLOW THE REZONING OF A PROPERTY FROM THE R-M MULTI-FAMILY RESIDENCE ZONING DISTRICT TO THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW ONE SINGLE FAMILY DETACHED RESIDENCE AND UP TO 13 SINGLE-FAMILY ATTACHED RESIDENCES ON A 0.71 GROSS ACRE SITE LOCATED ON THE EAST SIDE OF RADIO AVENUE, APPROXIMATELY 160 FEET NORTH OF LINCOLN COURT, (2102 RADIO AVENUE) (WILLOW VILLAGE SQUARE, LLC PAUL MAJOULET, OWNER).

REASON FOR SUPPLEMENTAL OR REPLACEMENT

The decision to approve or deny the requested Planned Development Rezoning was deferred by the City Council during the August 14, 2007 hearing to be heard during the August 28, 2007 hearing to allow Planning staff and the applicant an opportunity to continue to work on the proposed project and to provide additional background information on the processing of the application.

RECOMMENDATION

Planning staff recommends the City Council approve the subject Planned Development Rezoning with the revised Development Standards as recommended by the Planning Commission and as incorporated by the applicant (see Analysis section below). The applicant's revised project plans continue to improve the project, and staff continues to support it.

OUTCOME

Should the City Council approve the Planned Development Rezoning and revised Development Standards as recommended by the Planning Commission, up to one single family detached residence and up to 13 attached residential units may be built on the subject 0.71 gross acre site provided the project meets the revised Development Standards. This future development would be subject to a Planned Development Permit.

BACKGROUND

The decision to approve or deny the requested Planned Development Rezoning was deferred by the City Council during the August 14, 2007 hearing to be heard during the August 28, 2007 hearing to allow Planning staff and the applicant an opportunity to continue to work on the proposed project and to provide additional background information on the processing of the application.

History of Development Proposals on the Site
Staff has been working with various property owners to determine the feasibility of allowing a higher-density infill residential project on the subject site since November 2000. Three formal preliminary review applications, each with several iterations, were reviewed by staff over five years, and the analysis generally concluded that the subject site was too small to allow for the development of between 13 to18 residential units. During these preliminary reviews, staff noted that the various proposals did not meet the minimum recommendations of the Residential Design Guidelines, and with each review, staff stated that they could not support the proposed project as designed.

On December 15, 2005, the current applicant submitted a proposal for a 15-unit project comprised of a combination of attached and detached residential units. In response to this initial proposal, staff conveyed to the applicant that the overall design of the project did not conform with the recommendations of the Residential Design Guidelines, and could not be supported as proposed. Staff recommended that the number of units be reduced to allow for a better site design.

On April 10, 2006, approximately 20 people attended a community meeting regarding the applicant's 15-unit proposal. The attendees expressed several objections to the project, including that the proposed number of units would create too high a density level for the site and for the neighborhood, and that this project would negatively impact an already impacted/over populated area (see staff report dated July 10, 2007).

After the community meeting, in response to the community and planning staff concerns, the applicant submitted revised plans that reduced the proposed number of units from 15 to 14 units. The revised proposal represented a substantial improvement over previous submittals in terms of meeting the recommended perimeter setbacks of the Residential Design Guidelines. In addition, the revised proposal incorporated a single-family detached residence that fronts onto Radio Avenue, with the attached garage located to the rear.

Although the revised site design represented an improvement from initial preliminary proposals, the project's required environmental review process was not yet complete and there were remaining aspects of the project that did not fully conform to the Residential Design Guidelines which staff and the applicant continued to work to address. The environmental process required review and revision

of several complex technical reports. Upon completion of the environmental review process, staff scheduled the project for the next available public hearing.

On July 18, 2007, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning (see summary provided in the Commission's memorandum to Council dated July 23, 2007). The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning for up to 14 units for the reasons stated in the staff report, recognizing the improvements from the original site design, especially the single-family house fronting on Radio Avenue.

During the Planning Commission's discussion of the item, however, several Commissioners expressed concern regarding the proposed amount of private open space per unit, the use of tandem garages for all the attached units, the possible need for additional on-site parking, and the interface of the project with the adjacent single-family houses to the south. Planning staff responded to the Commission's concerns by stating that it would likely be difficult to address all the issues identified by the Commission and maintain the number of units proposed by the applicant for the site.

Two of the Commissioners initially recommended that the project be denied, and several Commissioners recommended that the number of units be decreased to allow for additional amenities on the site. Staff stated that as an alternative to recommending a decrease in the maximum number of units allowed by the rezoning, the Planning Commission could consider recommending specific development standards to the City Council that would achieve a project with increased private open space and enhanced setbacks, and address the Commission's apprehension regarding the possible impacts of the project's proposed use of tandem garages on parking in the surrounding neighborhood.

During the two-week deferral of the item by the City Council, planning staff met with the applicant on August 20, 2007 to discuss the Planning Commission's recommendations. The applicant has provided a revised site plan that staff believes generally addresses the Commission's recommendations. Below is an analysis of the applicant's revised proposal.

ANALYSIS

The Planning Commission recommended that the City Council approve the project with the following revisions to the proposed development standards:

- At least fifty percent (50%) or more of the attached units shall provide a two-car, side-by-side garage.
- A minimum 10-foot setback is required for all one-story elements from the southern property line/adjacent to single-family detached residential properties.
- A minimum of 400 square feet of private open space is required per unit.
- A minimum of 1,000 square feet of common open space shall be provided for the benefit of all residents.

On August 20th, the applicant presented a revised site plan to staff to demonstrate that it is possible to comply with the Planning Commission's recommendation that 50% (seven) of the units have two-car, side-by-side garages. The applicant's revised site plan also shows that nine of the units would have increased private open space of at least 400 square feet of private open space, four units will have at least 320 square feet of private open space (60 square feet as private balconies) and one unit (#13)

will have 302 square feet of private open space. Three of the revised units that have side-by-side garages show a minimum 10-foot setback, and four of the units with one-story tandem garages retain a minimum 5-foot setback from southern property line adjacent to single family residential. This conceptual site plan has been revised to include 1,000 square feet of common open space area.

As a result of these revisions, there is a decrease of one open parking space on site. The parking requirement for this project is based on proposed bedroom count and the type of parking provided. As revised, the project provides parking for half the units in side-by-side, two-car garages. Based on the Residential Design Guidelines standards, 38 parking spaces are required for the revised proposal, and 39 parking spaces are provided.

As revised, staff believes the project generally conforms to the Planning Commission's recommendations to provide two-car, side-by-side garages on the site which several Commissioners believe encourages more utilization of on-site parking. The revised project substantially conforms to the Planning Commission's recommendation to increase the amount of private open space for most of the units, and maintains 1,000 square feet of common open space. The revised site plan does not fully meet the Planning Commission recommendation for a minimum10-foot setback for all one-story elements along the southern property line, but does result in an increased setback for almost half the building length, with only the one-story tandem garage elements retaining a 5-foot setback, similar to typical placement of single-family detached garages on a rear property line. Staff acknowledges the applicant has done a credible job in incorporating the recommendations of the Planning Commission into this revised proposal. With this revised plan by the applicant, the project continues to improve, and staff continues to support it.

EVALUATION AND FOLLOW-UP

A copy of the applicant's revised site plan (dated 8-20-07) is attached. Additionally, Planning staff has revised the proposed Draft Development Standards for the Plan Development Rezoning per the revised site plan. A copy of these revised standards showing the proposed revisions is attached.

POLICY ALTERNATIVES

Should the City Council choose to deny the subject rezoning request, the site would remain zoned RM – Multi-family Residential with a General Plan designation of Medium High Density Residential (12 –25 DU/AC). Any proposed development on the site would be subject to the applicable requirements of these designations unless a separate rezoning of the site is approved.

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. On April 10, 2006, approximately 20 people attended a community meeting regarding this proposal. The majority of the attendees were residents who live along Radio Avenue and Lincoln Court. The attendees expressed several objections to the project, including that the proposed number of units creates too high a density level for the site and for the neighborhood, that the surrounding area is already highly populated with many multi-family apartment buildings, and that this project would negatively impact an already impacted/over populated area

The applicant posted a notification sign at the site in conformance with the Public Outreach Council Policy. Notices of the community meeting, the public hearings, and the Draft Mitigated Negative Declaration were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and is posted on the City website. The notice of hearings for the rezoning was also published in a local newspaper. The Planning Commission's agenda is posted on the City of San Jose's website along with this staff report. Staff has been available to answer questions and discuss the proposal with members of public. Staff has received three letters of objection (see Staff Report dated July 10, 2007) and many phone calls from the community expressing concerns regarding this proposal.

COORDINATION

This project was coordinated with the Building Department, Department of Public Works, Fire Department, Police Department, Environmental Services Department and the City Attorney.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and substantially conforms to City Council approved design guidelines as further discussed in attached staff report.

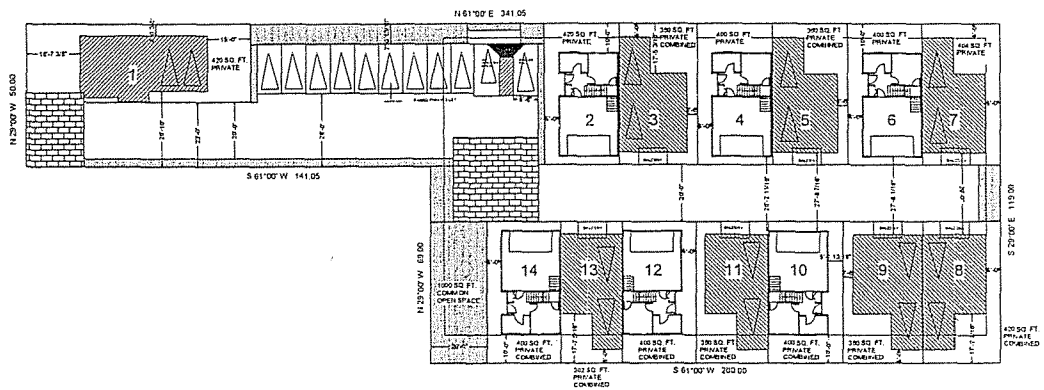
CEQA

CEQA: Mitigated Negative Declaration (MND) adopted on July 18, 2007, under File No. PDC05-122.

for Susan Walton
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Susan Walton at 408-535-7847.

cc: Legacy Land Strategies, Inc. Attn: Dave Dolter, AICP, 3068 Oakraider, Alamo, CA 94507
Willow Village Square, LLC, Attn: Paul Majoulet, 1687 Via Campo Verde, San Jose, CA 95120
Mark H. Snow & Associates, Attn: Mark Snow, 385 Vista Roma Way, Unit 224, San Jose, CA 95136



SITE PLAN 1" = 20'-0"

8-20-07

PDC05-122

Revisions	
Re-submittal set	2-18-07
Re-submittal set	4-03-07
Re-submittal set	5-11-07

General notes

Consultants

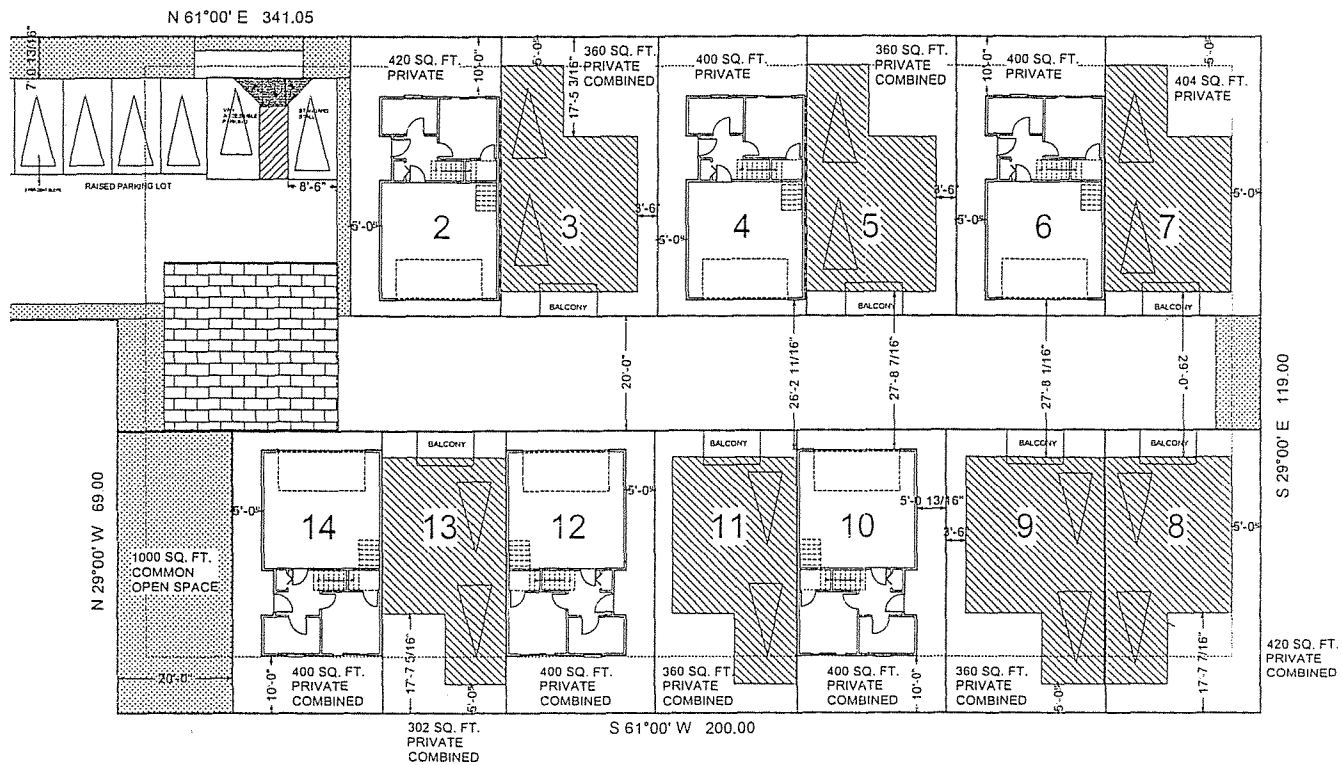
PLANNED DEVELOPMENT ZONING
Willow Village Square
2102 Radio Avenue San Jose, CA.

(408) 396-4886 mhsnewassoc@yahoo.com

Date	18 FEB. 2007
Scale	Noted
Drawn by	
Job no	

1

Sheet no



SITE PLAN 1" = 10'-0"

8-20-07

PDC05-122

Revisions	
Re-submittal set	2-18-07
Re-submittal set	4-03-07
Re-submittal set	5-11-07

General notes

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Job no.	

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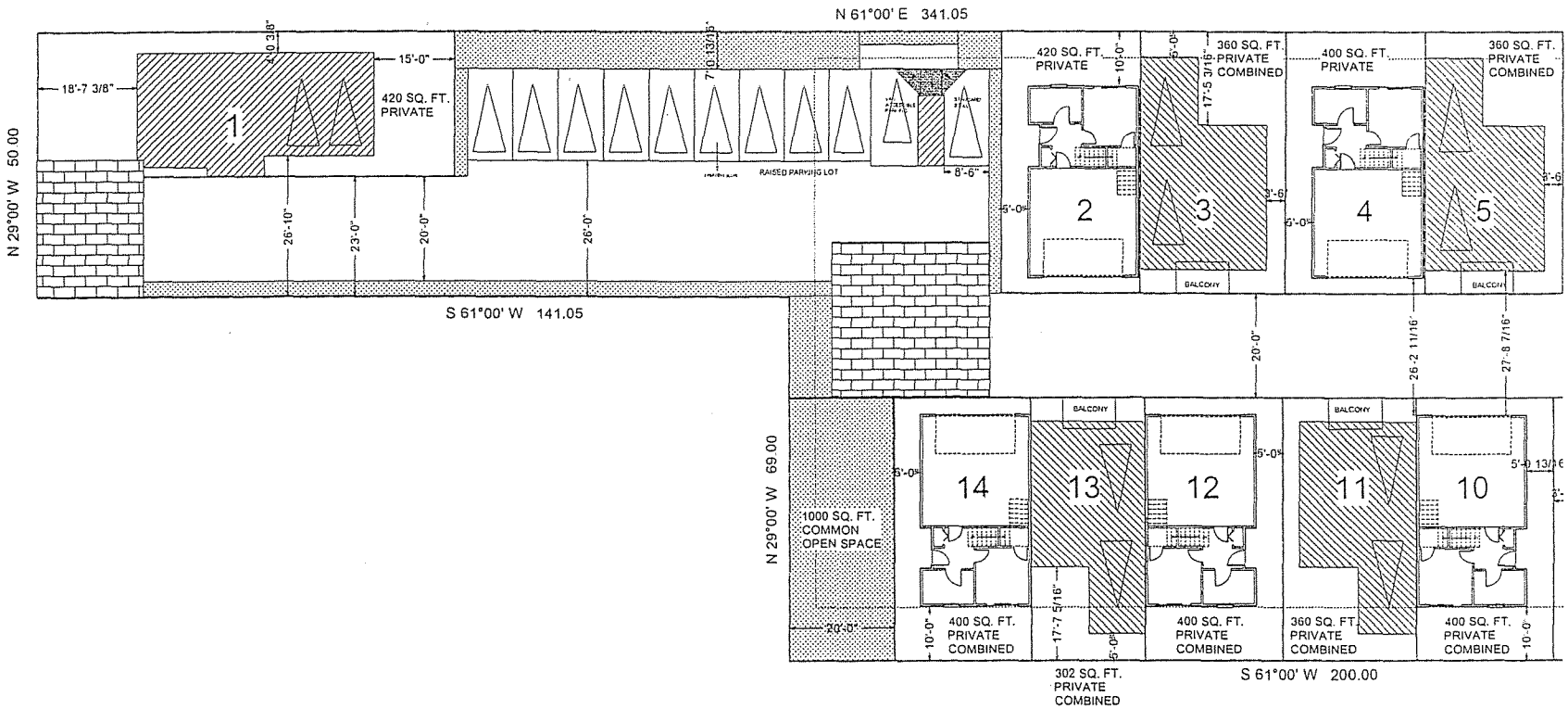
Sheet no.



SITE PLAN 1" = 10'-0"

8-20-07

PDC05-122

Revisions	
Re-submittal set	2-18-0
Re-submittal set	4-03-0
Re-submittal set	5-11-0

General notes

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2102 Radio Avenue San Jose CA

(408) 296-4886 mhsnowassoc@yahoo.com

Date	18 FEB. 2007
Scale	Noted
Drawn by	
Job no	

3

Sheet no

The following development standards shall be placed on the Land Use Plan of the General Development Plan set after the rezoning has been approved by the City Council. All other development standards shall be removed from the plan set.

PDC05-122
DEVELOPMENT STANDARDS
(As revised 8/20/07 per the Planning Commission's recommendation and per the applicant's revised plans)

PLANNED DEVELOPMENT PERMIT REQUIRED:

- A Planned Development Permit is required in accordance with Section 20.100.910 of Title 20, as amended.

PERMITTED USES:

- Permitted uses of the R-1-8 Single-Family Residence District, as amended. Uses identified as "conditional uses" may be considered for approval through the Planned Development Permit or Amendment process.

MINIMUM LOT SIZE:

- 1,100 square feet

MAXIUMUM NUMBER OF UNITS:

- Up to one single-family detached residential unit
- Up to 13 single-family attached residential units

MAXIMUM NUMBER OF BEDROOMS:

- Each unit is limited to three bedrooms. Conversion of open areas and dens to bedrooms is prohibited.

BUILDING HEIGHT:

- The maximum building height shall not exceed thirty-five feet (35').
- No more than three stories shall be permitted.
- Chimneys may project past the height limit up to a total height of 40 feet.

BUILDING SETBACKS:

Single Family Detached Residence:

- Front Setback (from Radio Avenue): 20 feet
- Side Interior Setback (northern): 5 feet
- Interior Setback (southern): 22 feet
- Rear Setback: 10 feet (from the open parking area)
- Minimum Back out area for side entry garage: 24 feet
- Private Open Space: 400 square feet

Attached Residential Units:

- Minimum Building Side Separation Between Sets of Units: 6 feet (3 feet from each lot line)
- Minimum Building Separation Between Front Facades: 26 feet
- Minimum Back Out Area Between Garages: 24 feet

- Minimum Building Rear Setbacks from the northern and southern property lines:
  - **one-story tandem garages: ~~5 feet~~ 5-feet**
  - one-story living areas: ~~15 feet~~10 feet
  - two-story living areas: 17.5 feet
  - three-story living areas: 20 feet
- Minimum Building Setback from eastern property line: 5 feet
- Building Setback from the Western Property line that Abuts the Rear of APN: 439-08-013: ~~26 feet~~ 20 feet

PROJECTIONS INTO SETBACK AREAS

- All architectural and building features must meet Building and Fire Code Requirements.
- Except as otherwise expressly and specifically provided, every part of every setback area shall be kept open, unobstructed, and unoccupied on the surface of the ground above the surface of the ground and below the surface of the ground by all buildings or structures, except as follows:
  - Architectural elements not containing living space may project up to 2 feet into setback areas.
  - Bay windows, on a foundation or cantilevered, not occupying the aggregate more than twenty (20%) of the length of the side of the building one which they are located, may project horizontally for a distance of not more than two (2') feet into any setback area, provided that such extensions maintain a minimum side building separation setbacks of three (3') feet, a rear setback of fifteen (15') feet and does not decrease the amount of vehicular back out area from the garages.

PRIVATE OPEN SPACE AREAS

- A minimum of ~~300~~ 400 square feet of Private Open Space is required at the ground level and through the incoropation of balconies that are oriented toward the private drive way for ~~all units.~~ unit #'s 1, 2, 4, 6, 7, 8, 10 12 and 14
- A mimimum of 360 square feet of Private Open Space is required at the ground level and through the incoropation of balconies that are oriented toward the private drive way for unit #'s 3, 5, 9 and 11
- A minimum of 302 square feet of Private Open Space is required at the ground level and through the incorporation of balconies that are oriented toward the private drive way for unit # 13.
- Private open space areas shall have at least one minimum dimension of fifteen (15') feet and a minimum depth of five feet (5').
- Additional private open space may be provided in second or third level balconies provided the balconies that they are oriented toward the interior of the lot. Second or third level balconies that face the surrounding residential uses are prohibited.

COMMON OPEN SPACE AREA

- A minimum of 1,000 square feet of Common Open Space is required.

SHARED DRIVEWAY:

- Maximum Twenty-foot width (20').
- Two feet of landscaping is required along the southern property line along the neck of the driveway.

- Landscape pockets at least 6 feet in width are required in front of each unit located at the rear of the site.
- Parking is not permitted at the end of the eastern end of the driveway.

PRIVATE GARAGE APRONS

- Private driveways/garage aprons shall be ten feet or less [10'] or eighteen feet or more [18'].

PEDESTRIAN PATHS

- A four foot pedestrian path is required along the northern side of the neck of the driveway
- All pedestrian paths shall meet ADA requirements.

PARKING REQUIREMENT:

At least fifty percent (50%) of the attached units are required to have a two-car side-by-side garage.

Note: Each unit is limited to three bedrooms. Conversion of open areas and dens to bedrooms is prohibited.

UNITS WITH A TWO-CAR TANDEM GARAGE

- Three bedroom units: 2.8 Parking Spaces per unit
- Two bedroom units: 2.7 Parking Spaces per unit
- One bedroom units: 2.5 Parking Spaces per unit
- Studio units: 2.4 Parking Spaces per unit

UNITS WITH A TWO-CAR 'SIDE BY SIDE" GARAGE

- Three bedroom units: 2.6 Parking Spaces per unit
- Two bedroom units: 2.5 Parking Spaces per unit
- One bedroom units: 2.3 Parking Spaces per unit
- Studio units: 2.2 Parking Spaces per unit

* All units shall provide an enclosed attached two-car garage.

* At least one large canopy tree shall be planted for every four open parking spaces in a seven-foot wide landscaped area located in front of the open parking spaces located along the neck of the driveway.

GUEST PARKING:

- At least 10% of the total number of required open on-site parking spaces shall be available for guest use.
- All guest parking spaces shall be clearly labeled.

FENCING:

- All fencing and walls meets the fencing standards of Title 20 of the Municipal Code as amended.

GATES:

- Gates that limit/restrict vehicular access to the site are prohibited.

COMMON IMPROVEMENTS:

- The driveways, guest parking spaces, common landscaped areas, paseos, easement areas, perimeter fencing and stormwater control measures shall be under common ownership and shall be maintained by a Home Owner's Association (HOA).

WATER POLLUTION CONTROL PLANT NOTICE:

- Pursuant to part 2.75 of chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose – Santa Clara water plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose – Santa Clara water pollution control plant to treat such sewage adequately and within the discharge standards imposed on the city by the state of California regional water control board for the San Francisco Bay region. The approving authority may impose substantive conditions designed to decrease sanitary sewage associated with any land use approval.

PUBLIC OFF-SITE IMPROVEMENTS:

- All public off-site improvements shall be implemented to the satisfaction of the Director of Public Works. Prior to the issuance of building permit(s), the applicant shall be required to obtain a Public Works clearance. Said clearance will require the execution of a Construction Agreement that guarantees the completion of the public improvements.

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 shall meet the numeric sizing design criteria specified in City Policy 6-29.

WATER QUALITY:

- Prior to commencement of construction activities, including, but not limited to grading, the project developer shall file for and obtain a National Pollutant Discharge Elimination System (NPDES) Permit from the State Water Resource Control Board.

STREET TREES:

- The Public right-of-way shall be planted with street trees as directed by the City Arborist.

PARK IMPACT FEES & PARKLAND DEDICATION ORDINANCE:

- The applicant shall comply with the requirements of the Park Impact Ordinances, pursuant to Ordinance 24172 (Chapter 14.25 of Title 14 of the San Jose, Municipal Code) and the project shall comply with the Parkland Dedication Ordinance.

ENVIRONMENTAL MITIGATION

- Mitigation shall be implemented as identified in the Negative Declaration prepared for the project (PDC05-122). Alternative mitigation may be approved by the Director of Planning based on a finding that the alternative measures reduce the impacts of the project to a non-significant level.

TREE REMOVALS

- Any tree proposed for removal that is 18 inches or greater in diameter as measured from two feet above grade requires approval of a Planned Development Permit Amendment to the satisfaction of the Director of Planning.
- All trees that are to be removed shall be replaced at the following ratios:

Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12 - 18 inches	3:1	2:1	none	24-inch box
less than 12 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio

Note: Trees greater that 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

- The species and exact number of trees to be planted on the site will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement. Contact Todd Capurso, PRNS Landscape Maintenance Manager, at 277-2733 or todd.capurso@sanjoseca.gov for specific park locations in need of trees.

- A donation of $300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.