

RESOLUTION NO. 73352

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE UPHOLDING THE DETERMINATION OF THE PLANNING DIRECTOR TO CONDITIONALLY APPROVE A PLANNED DEVELOPMENT PERMIT TO CONSTRUCT 34 SINGLE-FAMILY DETACHED RESIDENCES AND A TENTATIVE SUBDIVISION MAP TO RECONFIGURE 2 PARCELS INTO 34 LOTS FOR SINGLE-FAMILY DETACHED RESIDENTIAL PURPOSES, LOCATED AT THE SOUTH SIDE OF ROCK AVENUE, APPROXIMATELY 800 FEET WESTERLY OF OAKLAND AVENUE ON A 4.16 GROSS ACRE SITE

FILE NO. PD06-003 & PT06-006

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San Jose Municipal Code, on January 5, 2006, an application (File No. PD06-003) was filed by Taylor Woodrow Homes on behalf of property owners Aldo and Beverly Scofone, Loren Jones and Catherine Valentine, for a Planned Development Permit to construct 34 single-family detached residences, and a Tentative Subdivision Map to reconfigure 2 parcels into 34 lots for single-family detached residential purposes on that certain real property, situated in the A(PD) Planned Development Zoning District, located at the south side of Rock Avenue, approximately 800 feet westerly of Oakland Avenue, San Jose, more particularly described in Exhibit "A," attached hereto and incorporated herein by reference (hereinafter "Subject Property"); and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San Jose Municipal Code, the Planning Director conducted a hearing on said application at which all interested persons were afforded an opportunity to be heard and provide testimony; and

WHEREAS, on June 23, 2006, the Planning Director approved the application with standard and project specific conditions, from which decision the appellant, Super Micro Computers ("Appellant"), has filed an appeal to this City Council, a copy of which appeal is attached hereto and incorporated herein by this reference as Exhibit "B;" and

WHEREAS, Appellant's appeal is based upon: approval of the PD Permit compromising the safety of future residents due to a mixture of heavy truck traffic on Rock Avenue and the possibility of increased presence of residents, particularly children on the street, and residential traffic; and

WHEREAS, a Mitigated Negative Declaration (MND) was prepared for a rezoning project under File No. PDC05-105, and said MND was adopted on March 22, 2006; and

WHEREAS, the proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San Jose Municipal Code, this City Council conducted a public hearing on said appeal on August 15, 2006, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, " Hawthorne Place II," dated January 5, 2005, as revised on June 14, 2006, and said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendation of the Planning Director, together with all attachments thereto, the documents submitted by the Appellant, and all other materials submitted to the City Council in connection with this matter, all of which are on file with the City Clerk of the City of San José and incorporated herein by this reference and

WHEREAS, said appeal hearing was conducted in all respects as required by the San Jose Municipal Code and the rules of this City Council.

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

A. FACTS

After considering evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. The project site is located at the south side of Rock Avenue, approximately 800 feet westerly of Oakland Avenue.
2. The subject site is 4.16 gross acres in size.

3. The site has a designation of Medium Density Residential (8-16 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
4. The project site is located in the A(PD) Planned Development Zoning District.
5. Pursuant to CEQA Guidelines, a Mitigated Negative Declaration has been adopted for this project (File No. PDC05-105) which indicated that, with the implementation of mitigations as described therein, there is no substantial evidence that the project will have a significant adverse effect on the environment.
6. The subject site is surrounded by Rock Avenue to the north with a mobile home park located across Rock Avenue, detached single-family residences to the east and south, and industrial and business offices to the west. The proposed project would replace the existing light industrial use on the property with residential use, more similar to the uses to the east and south of the subject site.
7. The site is currently developed with a warehouse and a number of temporary buildings. The project proposes the demolition of all of the existing structures on the site and the construction of thirty-four (34) detached single family residences. An analysis of these existing structures concludes that the structures are not historically significant.
8. The site currently consists of two existing separate parcels.
9. The project proposes reconfiguration of these two parcels into 34 parcels and the construction of 34 detached single-family residences and associated site improvements.
10. An application for a Planned Development Permit and a Tentative Subdivision Map for this purpose was filed on January 5, 2006 by Taylor Woodrow Homes (the "Applicant" or "Subdivider") on behalf of property owners Aldo and Beverly Scofone, Loren Jones and Catherine Valentine
11. On June 23, 2006, the Planning Director conditionally approved the Planned Development Permit and Tentative Subdivision Map for this project.
12. The proposed project as conditionally approved conforms to the development standards of the A(PD) Planned Development Zoning District established by Ordinance No. 27715.
13. The proposed density of the project is 11.3 dwelling units/acre.
14. The design and layout of the proposed project meets the provisions of the City's Residential Design Guidelines.
15. There are several existing trees on the site(s) of the proposed project, which trees are scattered about the entire area of the project site.

B. FINDINGS

Findings for Planned Development Permit:

The appeal is denied and the Planning Director's determination to conditionally approve the Planned Development Permit is upheld for all of the reasons set forth in the findings below:

1. The facts described above in Section A of this Resolution are hereby incorporated as findings.
2. The appeal states that the five homes on Rock Avenue should be reoriented so that their front yards do not face Rock Avenue which would decrease pedestrian accessibility of Rock Avenue and any accidental running into the street by any children living in these homes.
3. The orientation of the single-family homes to face Rock Avenue is in conformance with the recommendation of frontal orientation of homes on all but the most heavily traveled streets pursuant to the City's Residential Design Guidelines, and Rock Avenue is a 40-foot wide, 1,400 foot-long, two-lane cul-de-sac street with future parking on both sides and is not a major thoroughfare nor listed as a major arterial on the City's General Plan.
4. The appeal further states that the newly proposed public street within the proposed development from and to Rock Avenue will provide a vehicular access point for the entire residential development from Rock Avenue thus increasing the potential of residential traffic on Rock Avenue.
5. The newly proposed street layout conforms to the Residential Design Guidelines from points of traffic circulation and connectivity of neighborhoods, and City's Department of Public Works has determined, based upon traffic generation of 34 units and engineering analyses performed by Public Works Staff of the City, that the newly proposed street will have minimal effect on traffic on Rock Avenue.
6. The appeal also states that installing a mid-block, controlled pedestrian crossing at the location where the new street meets Rock Avenue and installing appropriate traffic signage on Rock Avenue indicating presence of pedestrians will increase pedestrian safety.
7. The City's Department of Transportation has investigated the pedestrian crossing element at this location and has confirmed that a mid-block, painted crosswalk, all of which has already been proposed and would be implemented with the project, meets the City standards and would adequately address pedestrian safety on Rock Avenue.

8. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The proposed project site is designated Medium Density Residential (8-16 DU/AC). The proposed project density is 11.3 dwelling units per acre, which is within the density range of 8-16 DU/AC. Based on this analysis, staff concludes that the rezoning conforms to the San Jose 2020 General Plan.
 - b. The project is also in keeping with the General Plan's Growth Management Major Strategy that encourages infill development within urbanized areas where urban services are already available as a means to controlling service costs.

9. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property in that:
 - a. The building location, setbacks, density, and number of units and parking spaces and street configuration conform to the current General Development Plan.

10. The interrelationship between the orientation, location and elevations of the proposed building(s) and structure(s) and other uses on-site are mutually compatible and aesthetically harmonious in that:
 - a. The layout and design of all of the individual single family homes conform to the City's Residential Design Guidelines.

11. The environmental impacts of this project will not have an unacceptable negative effect on adjacent property or properties in that: A Mitigated Negative Declaration has been adopted for this project (File No. PDC05-105) which indicated that, with the implementation of mitigations as described therein, there is no substantial evidence that the project has a significant adverse effect on the environment.

12. The location of the trees with respect to the proposed improvements unreasonably restricts the economic development of the parcels in question.

13. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

14. The City Council has considered all of the following criteria in evaluating the proposed demolition:
 - a. The approval of the permit should maintain the supply of existing housing stock in the City of San José.
 - b. Rehabilitation or reuse of the existing buildings is not proposed and is not required, and so would not be feasible.

- c. The approval of the demolition of the existing buildings would facilitate a project which is compatible with the surrounding neighborhood.
- d. Further, the Director of Planning concluded and found, and the City Council confirms on appeal, based on the facts and related analysis of the above facts, that: the benefits of permitting the demolition, removal or relocating of the subject structures outweigh the impacts of the demolition, removal or relocation.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approved, and the City Council upholds, pursuant to Section 20.80.460 of the San José Municipal Code, the demolition of the subject structure.

Findings for Tentative Subdivision Map

The appeal is denied and the Planning Director's determination to conditionally approve the Tentative Subdivision Map ("Tentative Map") is upheld for all of the reasons in the findings that follow:

1. The facts described above in Section A of this Resolution are hereby incorporated as findings.
2. The appeal states that the five homes on Rock Avenue should be reoriented so that their front yards do not face Rock Avenue which would decrease pedestrian accessibility of Rock Avenue and any accidental running into the street by any children living in these homes.
3. The orientation of the single-family homes to face Rock Avenue is in conformance with the recommendation of frontal orientation of homes on all but the most heavily traveled streets pursuant to the City's Residential Design Guidelines, and Rock Avenue is a 40-foot wide, 1,400 foot-long, two-lane cul-de-sac street with future parking on both sides and is not a major thoroughfare nor listed as a major arterial on the City's General Plan.
4. The appeal further states that the newly proposed public street within the proposed development from and to Rock Avenue will provide a vehicular access point for the entire residential development from Rock Avenue thus increasing the potential of residential traffic on Rock Avenue.
5. The newly proposed street layout conforms to the Residential Design Guidelines from points of traffic circulation and connectivity of neighborhoods, and City's Department of Public Works has determined, based upon traffic generation of 34 units and engineering analyses performed by the City, that the newly proposed street will have minimal effect on traffic on Rock Avenue.
6. The appeal also states that installing a mid-block, controlled pedestrian crossing at the location where the new street meets Rock Avenue and installing appropriate traffic

signage on Rock Avenue indicating presence of pedestrians will increase pedestrian safety.

7. The City's Department of Transportation has investigated the pedestrian crossing element at this location and has confirmed that a mid-block, painted crosswalk, all of which has already been proposed and would be implemented with the project, meets the City standards and would adequately address pedestrian safety on Rock Avenue.
8. No further change in the layout of the lots or streets is warranted under the analysis contained herein.

The Director's determination is upheld and includes the following findings and conditions of the Director's approval:

1. The City Council of the City of San Jose finds that the proposed subdivision shown on the Tentative Map, subject to the conditions listed below and the requirements for project design and improvements, is consistent with applicable General and Specific Plans of the City of San José, in that the 34 lots for the purpose of single-family detached units with lot sizes ranging from 3,139 square feet to 6,466 square feet on a 4.16 gross acre site on the subject property which has a General Plan Land Use/Transportation Diagram designation of Medium Density Residential (8-16 dwelling units/acre) is at a density of 11.3 dwelling units/acre.
2. The City Council of the City of the City of San José has considered the proposed subdivision shown on the Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in subsections (a) through (g) of Section 66474 of the Government Code of the State of California. Based on that review, the City Council of the City of San José does not make any such findings for the subject subdivision.
3. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. The environmental impacts of this project will not have an unacceptable negative effect on adjacent property or properties in that: A Mitigated Negative Declaration has been adopted for this project (File No. PDC05-105) which indicated that, with the implementation of mitigations as described therein, there is no substantial evidence that the project has a significant adverse effect on the environment.
 - b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

PLANNED DEVELOPMENT PERMIT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

CONDITIONS PRECEDENT

This Planned Development Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this permit has been recorded with the County Recorder.

1. **Interior Noise Levels.** *Prior to issuance of building permits*, the Applicant shall retain a qualified acoustical consultant to check the building plans for all units to ensure that interior noise levels can be sufficiently attenuated to 45 DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.
2. **Plans at building permit Stage.** *Prior to issuance of building permits*, the applicant shall submit revised plans to the satisfaction of Director of Planning showing the following: architectural details from the front façade of the proposed homes including shutters, architectural trim elements, wood details, and window sills, shall be incorporated into the public street-facing elevations for units 11, 12, 25, 26, and 34.
3. **Acceptance.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.

CONDITIONS CONCURRENT

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Resident Safety Measures.** The front yards and the sidewalk designs shall include specific landscape treatments in the park strip and low fencing with gates, to enhance resident safety for the five homes fronting on Rock Avenue, as shown on page L-6 of the approved plan set dated January 5, 2005, as revised on June 14, 2006, to the satisfaction of the Director of Planning.
2. **Disclosure to Future Residents:** The following fact shall be disclosed verbatim, and in writing, to each prospective buyer of a home within the proposed development prior to the prospective buyer's execution of any agreement related to the buyer's purchase of a home within the proposed development: *The homes within the [Name of Development] are located*

in close proximity to an industrial area and industrial trucks will continue to operate on Rock Avenue.

3. **Pedestrian Safety Measures.** As offered by the applicant, the applicant shall work with the Department of Transportation and Department of Public Works staff to explore additional pedestrian safety enhancements, such as signage, which could be provided by the project, to be installed in conjunction with the painted, striped pedestrian crosswalk and pedestrian activated beacon, to be installed by the Department of Transportation across Rock Avenue at the intersection with the project's public street, if appropriate, to the satisfaction of the Directors of Transportation and Public Works
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-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 Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
6. **Demolition Permit.** Obtainment of a Demolition Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions. No demolition of the structure may be implemented unless and until the Building Division issues a Demolition Permit pursuant to Section 301 of the Uniform Building Code, as adopted pursuant to the provisions of Chapter 17.04 of Title 17 of the San José Municipal Code.
7. **Conformance with Plans.** Construction and development shall conform to the approved development plans entitled, "Hawthorne Place II," dated January 5, 2005, last revised June 14, 2006, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the

Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

10. **Fence Standards.** Fences shall be erected in accordance with the standards established on the approved Plan Set. Changes to the approved fencing shall comply with the requirements as provided for in Title 20, Chapter 20.30, Part 6: Fence Regulations.

11. **Construction Impact Mitigation Measures.** The applicant shall ensure that the following construction impact mitigation measures are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, its contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City.
 - a. *Notification.* Prior to construction activities, the applicant shall send a letter to all property owners and tenants within a 500-foot radius of the project. The letter shall include information about construction hours, hours of deliveries, anticipated project start date and timeline and shall provide a contact phone number for the project's designated disturbance coordinator. The applicant shall provide an updated letter to the same mailing list if there are significant changes in the schedule or construction operation or if the contact information changes. A copy of the letter/s shall be provided to the Planning Division with the project file number "PD06-003" referenced thereon.
 - b. *Construction Hours.* Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
 - c. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the specified hours to minimize disruption of nearby residents.
 - d. *Fencing.* The site shall be wholly enclosed by security fencing. The gates to the project site shall remain locked during all other times, except for a fifteen-minute period immediately preceding and following the above hours of construction.
 - e. *Construction Employees.* Construction workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location that is not immediately adjacent to residential units for workers to wait prior to the opening of the project gates.
 - f. *Plans.* The construction hours shall be printed on all plans for the project used to construct the project.

- g. *Mitigation Measure Disclosure.* These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors. In addition, the applicant is responsible to ensure the following occur prior to the issuance of a Building Permit for the project:
- 1) *Disturbance Coordinator.* A disturbance coordinator shall be identified by the Applicant for this project. The disturbance coordinator shall be responsible for ensuring compliance with the hours of construction and construction mitigation requirements of this Permit.
 - 2) *Daily Log.* The disturbance coordinator shall maintain a log of daily activities on the project, including but not limited to, verification of site closure, project cleanliness, complaints regarding on-site activities and conditions and dates and times of the coordinator's visits to the project if the coordinator is not solely responsible for this project site. This log shall be kept at the site and made available for review by City staff upon request.
 - 3) *Telephone Contact.* A phone with answering machine for non-work hours shall be maintained during the duration of project construction to aid nearby residents in expressing concerns regarding construction activities. The phone number should be a local call for surrounding residents.
 - 4) *Signage.* The name and phone number of the disturbance coordinator, the hours of construction limitations, City File Number PD06-003, city contact and phone number (Planning Department and phone number), and shall be displayed on a weatherproof sign posted at each entrance to the project site.
 - 5) *Construction Equipment.* The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical conditions to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
12. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
13. **Certification.** Pursuant to Title 15 of the San José Municipal Code, Chapter 15.10, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.

14. **Storm Water Discharge.** The applicant shall conform to the Non-Point Source Control requirement for storm water discharge associated with construction activity as required by the State Water Resource Control Board. Contact the Regional Water Quality Control Board at (415) 286-0968 for further information.

15. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with the San José Municipal Code.

16. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, 3F, (408) 535- 3555, and is subject to the following requirements to the satisfaction of the Director of Public Works.
 - a. *Construction Agreement:* The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements 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.

 - b. *Transportation:* A traffic impact analysis has been performed for this project based on 26 AM and 26 PM peak hour trips. The subject Project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.

 - c. *Street Vacation:* A street vacation is required in order to accomplish the land use plan as shown. The street vacation process requires further discretionary approval by the City Council and the project will be subject to this process prior to Public Works Clearance. The property may be subject to a sale and disposition process, which may involve public auction.

 - d. *Grading/Geology:*
 - 1) A grading permit is required prior to the issuance of a Public Works Clearance.
 - 2) 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.

 - 3) 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) The Subject Property is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- e. *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.
- f. *Flood: Zone D.* The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- g. *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.
- h. *Street Improvements:*
 - 1) Provide a City standard detached sidewalk with planter strip along Rock Avenue.
 - 2) Close unused driveway cut(s).
 - 3) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - 4) 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.
- i. *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.
- j. The project is required to submit plan and profile of the mains with lateral locations for final review and approval prior to construction.

- k. *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.

l. Landscape:

- 1) Install street trees within the public right-of-way along the entire street frontage per City standards. Trees shall be installed in the planter strip.
 - 2) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - 3) Contact the City Arborist at (408) 277-2756 for the designated street tree.
17. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
18. **Roof Equipment.** All roof equipment shall be screened from view.
19. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground.
20. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
21. **Fire Clearance.** A Fire Clearance shall be obtained from Fire Chief prior to the issuance of a building permit.
22. **Fire Flow.** Required fire flow for the site is as approved in writing by the Fire Chief.
23. **Fire Maintenance.** All Fire Department access roads, water mains and fire hydrants shall be installed and operational during construction in accordance with Article 87 of the Fire Code and all other applicable standards.
24. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
25. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, PD06-003, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* Applicant shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
 - d. *Final Map.* This project must record a Final Map consistent with Tentative Map File No. PT06-006 prior to issuance of Building Permits.
26. **Addressing.** The main address numbers should be a minimum of 12 inches in height and should be positioned where they are most clearly visible from the street. Each individual building and unit shall be clearly marked with the appropriate building number and address and should be positioned so as to be easily viewed from pedestrian pathways and/or vehicular routes throughout the complex.
27. **Enclosures/Screening.** Utility structures shall be enclosed or screened as shown on the approved plan set. Any utility structures not shown on the approved plan set shall require approval of an Administrative Permit and shall be designed to match existing fencing, screening and landscaping.
28. **Recycling.** Scrap construction material should be recycled. Integrated Waste Management staff can provide assistance on how to recycle construction debris from the project, including information on available haulers and processors.
29. **Biological Resources –**
- a. Construction shall be scheduled to begin 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 September (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.

30. **Tree Removal.** Replacement trees will be over and above the regular landscaping to be provided on the site. All non-orchard trees that are to be removed shall be replaced at the following ratios:

- 1) Each tree less than 12” in diameter to be removed = one 15 gallon tree
- 2) Each tree 12” to 17” diameter to be removed = two 24” box trees
- 3) Trees 18” or more in diameter shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree greater than 18” diameter to be removed = four 24” box trees

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 Planning; or

A donation of \$300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-street 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 Environmental Principal Planner prior to issuance of a development permit.

31. **Standard Mitigation for Tree Protection.**

a. Pre-construction treatments

- 1) The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.
- 2) Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction is completed.
- 3) Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

b. During construction

- 1) No grading, construction, demolition or other work shall occur within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the consulting arborist.

- 2) Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
- 3) Supplemental irrigation shall be applied as determined by the consulting arborist.
- 4) If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.
- 5) No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE.
- 6) Any additional tree pruning needed for clearance during construction must be performed or supervised by an Arborist and not by construction personnel.
- 7) As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement.

32. **Noise Barrier At property Line.** A six-foot high noise barrier shall be constructed at property lines closest to I-880. Noise barriers will need to be constructed of a material with a surface weight of at least four pounds per square foot (e.g., wood, concrete, Lexan, etc.) and be free of cracks, gaps, and openings – especially at the base.

33. **Noise.** The following measures shall be implemented by the Applicant and/or construction site supervisor to reduce potential construction noise impacts to surrounding neighbors:

- a. Notify neighbors within a 500 feet radius of the Subject Property of the schedule and type of equipment used for each phase of construction;
- b. Limit hours of construction to between 7:00 a.m. and 7:00 p.m. on weekdays, when construction occurs within 500 feet of existing residences, in conformance with City standards;
- c. Locate noisy stationary equipment (i.e., generators or compressors) away from neighboring residences;
- d. Require that all construction equipment be in good working order and that mufflers be inspected for proper functioning;
- e. Require that vehicles and compressors turn off engines when not in use;
- f. Utilize available noise suppression devices and techniques as appropriate, in conformance with General Plan policy; and

- g. Designate a construction noise coordinator who would be available to respond to complaints from neighbors and take appropriate measures to reduce noise.

34. **Air Quality during construction.** The following BAAQMD Basic Control Measures shall be implemented at the project site to reduce particulate emissions during project construction to a less-than-significant level:

- a. Water all active construction sites at least twice daily, and more often during windy periods;
- b. Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least two feet of freeboard;
- c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
- f. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust.

35. **Hydrology And Water Quality.**

- a. The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication Blueprint for a Clean Bay. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 E. Santa Clara Street, Tower 3F, San Jose, California 95113-1905. The Erosion Control Plan may include BMPs as specified in ABAG's Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES Permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 535 7800.
- b. Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit as follows:

- 1) The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities;
 - 2) The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).
- c. The project applicant shall comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation and with the City of San Jose Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:
- 1) Restriction of grading to the dry season (April 15 through October 15);
 - 2) Utilize on-site sediment control BMPs to retain sediment on the project site;
 - 3) Utilize stabilized construction entrances and/or wash racks;
 - 4) Implement damp street sweeping;
 - 5) Provide temporary cover of disturbed surfaces to help control erosion during construction;
 - 6) Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.
- d. The project shall comply with applicable provisions of the following City Policies – 1)Post Construction Urban Run-off management (6-29), and 2)Post-construction Hydromodification management Policy (8-14).

36. Archaeology.

- a. Construction workers will be alerted of the potential that site clearing and trenching may uncover buried archaeological materials. Indicators of buried materials are: darker than surrounding soils, concentration of bones, stone or shell fish, artifacts of these materials, evidence of fire such as ash, charcoal, fire affected rock or earth, and human and/or animal burials. If evidence of any archaeological, cultural, and/or historical deposits is found, the following measures shall be taken:
 - 1) A qualified professional archaeologist will be notified and all further excavation activity shall be monitored. There shall be no excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains, at least within 50 feet of the discovery, until archaeological monitoring by the qualified archeologist begins.

- 2) Hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the City's Environmental Principal Planner, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)
 - 3) If it is determined that the discovery represents a cultural resource deposit potentially eligible for inclusion on the California Register of Historic Resources (CRHR), Environmental Principal Planner for the City of San Jose should be notified, and the resource should be evaluated to the satisfaction of the Director of Planning, Building and Code Enforcement. If evaluative testing confirms that the resource is eligible for inclusion on the CRHR, a plan for mitigation of impacts should be prepared to the satisfaction of the Director of Planning, Building and Code Enforcement, and implemented before construction related earthmoving is allowed to recommence inside the area designated as archeologically sensitive.
- b. Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to State law, then the Applicant shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

37. Model/Tract Sales.

- a. Upon the completion of unit sales or at the end of a two-year time period following the commencement of the use (whichever comes first), the temporary sales office shall be converted back to the intended residential uses and all landscaping and site design characteristics, including the closing of the proposed curb-cut for the temporary parking area driveway, shall be returned to the configuration shown on the approved site plan for the Planned Development Zoning.
- b. All advertising devices shall conform to the San Jose Municipal Code Sign Regulations.
- c. No structures, other than fences or signs, shall be allowed in the front setback areas of the model home lots.

- d. A list indicating the extras displayed in model homes, including price, shall be placed in a prominent location in all tract sales offices and in the model homes.
- e. Sales are limited to homes within this subdivision or within a contiguous subdivision developed by the same applicant in a similar manner.
- f. The sales office and models shall be converted to legal residences upon expiration of the permit and before they are sold or rented.
- g. A Type 2A-10BC fire extinguisher shall be located within the tract sales office.
- h. Individual model identification signs shall not exceed six square feet in surface area.
- i. No single on-site tract identification sign shall exceed 32 square feet in surface area nor exceed 10 feet in height. The total area of all on-site signs, including model identification signs, shall not exceed 100 square feet.
- j. The on-site sign shall be removed upon the conversion of the models.
- k. Two flags per lot shall be allowed (four on corners).
- l. Any structure not allowed by right in a particular Zoning district for which this application is being considered, e.g., encroachment into required setbacks and other easements exceeding heights or area limitations or other similar restrictions, shall not be included as part of any sales model. All patio covers, gazebos, decks, hot tubs, etc. will only be constructed as permanent structures in conformance with the applicable Zoning District, Land Use Permit and Building Permit.
- m. This permit does not approve off-site tract sales office signs, which require a separate permit procedure.

38. **Pervious Pavers.** The following maintenance measures should be followed:

- a. Minimize use of salt or grit for de-icing.
- b. Keep landscaped areas well maintained.
- c. Prevent soil from being washed onto pavement.
- d. Vacuum clean surface using commercially available sweeping machines at the following times: end of winter (April), - Mid-summer (July / August), after Autumn leaf-fall (November) 2/3 times per year.
- e. Inspect outlets .

- f. If routine cleaning does not restore infiltration rates, then reconstruction of part of the whole of a pervious surface may be required.
 - g. The surface area affected by hydraulic failure should be lifted for inspection of the internal materials to identify the location and extent of the blockage.
 - h. Surface materials should be lifted and replaced after brush cleaning. Geo-textiles may need complete replacement.
 - i. Sub-surface layers may need cleaning and replacing.
 - j. Removed silts may need to be disposed of as controlled waste.
 - k. Maintenance Record. The property owner must keep a record available for inspection on the project site of all inspections and maintenance of the swales.
2. **Drainage Emitters.** Bubble up and pop up emitters shall be maintained in proper order, as per the specification of the manufacturer.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Planned Development Permit shall automatically expire thirty months from and after the date of approval by the City Council, granting this Permit, if within such thirty-month period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit. The Director of Planning may approve a **Permit Adjustment/ Amendment to extend the validity of this Permit in accordance with Title 20.** The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
2. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.

TENTATIVE MAP IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
2. **Improvement Contract.** In the event Subdivider has not completed the improvements required for his proposed subdivision at the time the final map is presented for approval, Subdivider shall

enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the bonds and insurance mentioned therein.

3. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
4. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Parcel or Final Map. Such easements so conveyed shall be shown on the Parcel Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.
5. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-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. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
6. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Public Works Approval of Tract Map:** Prior to the approval of the tract map by the Director of Public Works, the applicant will be required to have satisfied all of the following Public Works conditions.
 - a. *Construction Agreement:* The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements 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.

- b. *Transportation:* A traffic impact analysis has been performed for this project based on 26 AM and 26 PM peak hour trips. We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.
- c. *Street Vacation:* A street vacation is required in order to accomplish the land use plan as shown. The street vacation process requires further discretionary approval by the City Council and the project will be subject to this process prior to Public Works Clearance. The property may be subject to a sale and disposition process, which may involve public auction.
- d. *Grading/Geology:*
 - 1) A grading permit is required prior to the issuance of a Public Works Clearance.
 - 2) 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.
 - 3) 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) The Subject Property is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- e. *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.

- f. *Flood: Zone D.* The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- g. *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.
- h. *Street Improvements:*
 - 1) Provide a City standard detached sidewalk with planter strip along Rock Avenue.
 - 2) Close unused driveway cut(s).
 - 3) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - 4) 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.
- i. *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.
- j. The project is required to submit plan and profile of the mains with lateral locations for final review and approval prior to construction.
- k. *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.
- l. *Landscape:*
 - 1) Install street trees within the public right-of-way along the entire street frontage per City standards. Trees shall be installed in the planter strip.
 - 2) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this approval document are conceptual only.
 - 3) Contact the City Arborist at (408) 277-2756 for the designated street tree.

9. **Park Impact.** This subdivision is subject to the requirements of the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code), for the dedication of land for parks purposes, under the formulae contained within that chapter.
10. **Conformance with Other Permits.** The subject Tentative Map conforms to and complies in all respects with the Planned Development Zoning PDC05-0105 and the Planned Development Permit PD06-003 or any subsequent Planned Development Permit which is substantially the same as and was issued prior to expiration of Planned Development Permit PD06-003, on which such Tentative Map is based. Approval of said Tentative Map shall lapse and become null and void with respect to any portion of the lands covered by such Planned Development Map on which a Final Map has not yet been recorded if, prior to recordation of a Final Map thereon, the Planned Development Permit for such lands lapses and becomes null and void or for any reason ceases to be operative.
11. **Final Map.** No Final Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. PD06-006, has expired and all appeals have been exhausted.
12. **Expiration.** This Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the City Council of the City of San José. The date of issuance is the date this Tentative Map is approved by the City Council.

ADOPTED and issued this 15th day of August, 2006, by the following vote:

AYES: CAMPOS, CHIRCO, CORTESE, LeZOTTE, NGUYEN,
REED, WILLIAMS, CHAVEZ

NOES: NONE

ABSENT: PYLE, YEAGER; GONZALES

DISQUALIFIED: NONE

CINDY CHAVEZ
Vice Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.