

RESOLUTION NO. 73354

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSÉ, GRANTING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE USE OF CERTAIN REAL PROPERTY DESCRIBED HEREIN FOR SEVENTEEN SINGLE FAMILY ATTACHED RESIDENCES

FILE NO. PD06-022

WHEREAS, pursuant to the provisions of Chapter 20.100.900 of Title 20 of the San José Municipal Code, on March 30, 2006, an application (File No. PD06-022) was filed for a Planned Development Permit to allow the construction of 17 single-family attached residences to the subject site, situated in the A(PD) Planned Development Zoning District and located at the northeast corner of Alma and Almaden Avenues, San José, and

WHEREAS, the subject property is all of that certain real property described in Exhibit "A," attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100.900 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, 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 and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement, as well as any other reports, recommendations or other documents or materials received by Council in connection with this matter; and

WHEREAS, this City Council has reviewed and considered a Mitigated Negative Declaration for said project; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, “Villa Almendra” last revised on July 26, 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, said hearing was conducted in all respects as required by the San José Municipal Code and the rules of this City Council.

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

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 has a designation of Medium High Density Residential (12 - 25 du/ac) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is zoned A(PD) Planned Development Zoning District. The Planned Development Zoning (File No. PDC06-021) was reviewed by the City Council and approved on August 15, 2006.
3. The project site is located within the Washington Strong Neighborhoods Initiative area.
4. The subject site is 0.75 gross acres in size and is located at the northeast corner of Almaden Avenue and W. Alma Avenue. The site is currently vacant and is surrounded by single-family, two-family, and multi-family residential uses, as well as by some vacant properties. One and two story buildings also characterize the heights of the neighboring structures.
5. The project proposes the construction of 17 single-family attached townhouse units and the associated vehicular circulation and open space areas.
6. The proposed townhouses would front toward the perimeter streets and adjoin a private open space area to the rear of the site. Existing structures front on both Almaden and Alma Avenues. The proposed structures are a maximum of two-and-a-half stories each while existing structures are both one and two stories in height. A central private driveway would provide access to the rear loaded garages. Each unit would have two accessible garage parking spaces. Six of the garages would be in a tandem design. Four guest parking spaces would be provided on-site.
7. Private open space of approximately 52 square feet would be provided for each unit in the form of ground-level patios and balconies. Common open space measuring approximately 45 feet by 45 feet would be provided on the easterly portion of the site and at the northeast corner of the property.
8. In accordance with Section 20.100.010 of the San José Municipal Code, a Planned Development Permit is required for the proposed development.

The City Council finds, based on analysis of the above facts, that

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The zoning for the property is consistent with the General Land Use Plan designation of Medium High Density Residential (12 - 25 DU/AC) and conforms to the Washington Neighborhood Improvement Plan.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property in that:
 - a. The building locations, setbacks, density, number of units, and parking spaces conform to the General Development Plan.
3. 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 architectural elements of the proposed structures are integrated into a harmonious whole.
 - b. The proposed project is architecturally compatible with existing and planned development in the area because the exterior building materials consist of architectural composition shingles, cement fiberboard siding, and wooden windows, similar to the surrounding area.
4. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. In accordance with CEQA, the Director of Planning, Building, and Code Enforcement has adopted a Mitigated Negative Declaration for the proposed project. The adopted mitigation measures have been incorporated into the conditions of approval and are noted on the General Development Plan for the Planned Development Rezoning. The Director of Planning, Building, and Code Enforcement determined that with these measures incorporated, no significant impacts would result from implementation of the subject project.
 - 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.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** 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.
2. **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.
 3. **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.
 4. **Deadline for Commencing Construction.** This Planned Development Permit shall automatically expire two years from and after the date of issuance hereof by said City Council if within such two-year period, construction of buildings has not commenced, pursuant to and in accordance with, the provisions of this Site Development Permit. The date of issuance of this Planned Development Permit is the date that both of the following actions have occurred: this Permit is approved by the City Council of the City of San Jose, and Planned Development Zoning PDC06-021 has become effective. However, the Director may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20 of the San Jose Municipal Code. The Permit Adjustment must be approved prior to the expiration of this Permit.
 5. **Conformance with Plans.** Construction and development shall conform to the approved development plans entitled, "Alma Gardens," last revised on July 22, 2005, 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).
 6. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or 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. **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.
9. **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.
10. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, 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.
11. **Construction Impact Mitigation Measures.** 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. The project developer shall ensure that the following construction impact mitigation measures are implemented 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, their 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. *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. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon

written notice to the developer.

- b. *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 said construction times to prevent the disruption of nearby residents.
 - c. *Construction Employees.* Workers shall not arrive to the site more than 15 minutes prior to said construction times.
 - d. *Plans.* The construction hours shall be printed on the front of all plans for the project used to construct the project.
 - e. *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 project developer is responsible to ensure the following occur prior to the issuance of a Building Permit for the project.
 - f. *Disturbance Coordinator.* A disturbance coordinator shall be identified by the developer for this project. The disturbance coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other conditions in this permit. The name of the phone number of the disturbance coordinator shall be conspicuously posted on the project site.
12. **Interior Noise Levels.** All units shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows closed to control noise, and maintain an interior noise level of 45 DNL. Prior to issuance of building permits, the developer 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.
13. **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.
14. **Air Quality.** The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site.
- a. Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
 - b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
 - c. Pave, apply water at least 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 (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality; and
 - e. Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
15. **Cultural Resources.** Should evidence of prehistoric cultural resources be discovered during construction, work in the immediate area of the find shall be stopped to allow adequate time for evaluation and mitigation, and a qualified professional archaeologist called in to make an evaluation; the material shall be evaluated and if significant, a mitigation program including collection and analysis of the materials at a recognized storage facility shall be developed and implemented under the direction of the City's Environmental Principal Planner.
16. **Hydrology and Water Quality.** Implementation of the following mitigation measures, consistent with NPDES Permit and City Policy requirements, will reduce potential construction impacts to surface water quality to less than significant levels:
- a. The project shall comply with applicable provisions of the following City Policies – 1) Post-Construction Urban Runoff Management Policy (6-29), and 2) Post-Construction Hydromodification Management Policy (8-14).
 - b. Prior to the issuance of a grading permit, the project shall comply with State Water Resources Control Board's NPDES General Construction Activities Permit, to the satisfaction of the Director of Public Works, as follows:
 - The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity.
 - The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board.
 - c. Prior to the issuance of a Planned Development Permit, the applicant must provide details of specific best management practices (BMPs) including, but not limited to, bioswales, disconnected downspouts, landscaping to reduce impervious surface area, and inlets stenciled, "No dumping – Flows to Bay" to the satisfaction of the Director of Planning, Building and Code Enforcement.
17. **Geology and Soils.** Prior to issuance of a Public Works Clearance, the developer must obtain a grading permit before commencement of excavation and construction. Implementation of standard grading and best management practices would prevent substantial erosion and siltation during development of the site. The Project site 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.

18. Public Works Clearance. Prior to the issuance of Building Permits, the applicant will be required to have satisfied all of the following Public Works conditions (3-16836) to the satisfaction of the Director of Public Works. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Prior to the approval of the tract or parcel map by the Director of Public Works, the applicant will be required to have satisfied all of the following Public Works conditions.

- a. *Minor Improvement Permit:* The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
- b. *Grading/Geology.*
 - 1) A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - 2) The Project site 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.
- c. *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.
- d. *Easements.* Irrevocable offer of dedication of easement for future roadway expansion at the northeast corner of Alma and Almaden Avenues is required.
- e. *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.

- f. *Undergrounding.* The In Lieu Undergrounding Fee shall be paid to the City for all frontages adjacent to Almaden Avenue and Alma Avenue prior to issuance of a Public Works clearance. One hundred percent (100%) of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.) The Director of Public Works may, at her discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Almaden Ave. and Alma Ave. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- g. *Reimbursement:* The developer will be required to reimburse the City for costs advanced for the construction of street improvements along Alma Ave. in accordance with City Ordinance #19663.
- h. *Street Improvements.*
 - 1) Reconstruction of half street improvements including curb, gutter, sidewalk and AC sections is required along project frontages on both Almaden Ave. and Alma Ave.
 - 2) Close unused driveway cut(s).
 - 3) Install new handicap ramp at the corner of Almaden Ave. and Alma Ave.
 - 4) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - 5) 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. 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. *Electrical:* Installation, relocation and relamping of electrolier(s) may be required along project frontage.
- k. *Landscape.*
 - 1) Install street trees within the public right-of-way along the entire street frontage per City standards.
 - 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.

l. *Private Streets.*

1) Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.

2) The plan set includes details of private infrastructure improvements. The details are shown for information only; final design shall require the approval of the Director of Public Works.

m. *Median Island:* Construction of landscaping enhancements at existing median island located at Almaden Ave. and Alma Ave. is required.

19. **Lighting.** Proposed lighting shall conform to the following criteria.

a. On-site, uncovered exterior lighting shall use Low-Pressure Sodium fixtures.

b. All lighting shall be designed, controlled, and maintained so that no light source is visible from outside of the property. No light trespass onto adjacent properties is permitted.

c. Pedestrian level lighting is exempt from the low-pressure sodium requirement.

d. The lowest point of pedestrian level lighting fixtures shall be no higher than eight feet above grade. All pedestrian level lighting must be fully cut-off and fully shielded.

20. **Temporary Leasing Office.** This Permit includes a temporary leasing office for the project only. 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 leasing office shall be converted back to the intended residential uses and all landscaping and site design characteristics shall be returned to the configuration shown on the approved site plan. In addition, the office shall conform to the following regulations:

a) All advertising devices shall conform to the San Jose Municipal Code Sign Regulations.

b) No structures, other than fences or signs, shall be allowed in the front setback areas of the model home lots.

c) 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.

d) Sales are limited to homes within this subdivision or within a contiguous subdivision developed by the same applicant in a similar manner.

- e) The sales office and models shall be converted to legal residences upon expiration of the permit and before they are sold or rented.
 - f) A Type 2A-10BC fire extinguisher shall be located within the tract sales office.
 - g) Individual model identification signs shall not exceed six square feet in surface area.
 - h) 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.
 - i) The on-site sign shall be removed upon the conversion of the models.
 - j) Two flags per lot shall be allowed (four on corners).
 - k) 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.
 - l) This Permit shall be in compliance with this Planned Development Permit, file no. PD05-043.
 - m) This permit does not approve off-site tract sales office signs, which require a separate permit procedure.
21. **Roof Equipment.** No roof equipment is approved with this PD Permit. Any proposed roof equipment shall be screened from view and shall be subject to separate approvals and to the discretion of the Director of Planning, Building, and Code Enforcement.
22. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground.
23. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set and in the provided colors and materials submittals. No copper or nickel exterior materials are permitted. On the north elevation, lower-pane window glass on the third story shall be treated to prohibit direct sight in and out of the window when the window is closed.
24. **Fire Department Comments.** The project shall conform to all Fire Department comments at the Plan Review stage, including but not limited to those comments contained in the two memorandums from Nadia Naum-Stoian dated July 4, 2005 and July 28, 2005 for the previous Planned Development Rezoning, File No. PDC05-019.

25. **Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by the use of reflective materials. Street numbers shall be displayed both on the front of each unit and on the rear, garage elevation of each unit.
26. **Directory Signs.** A small, lighted directory showing all buildings shall be provided at the gated entry to the common open space area at the east end of the site.
27. **Sign Approval.** The detached, freestanding signage shown on the plans is hereby approved. No other signage, other than the directory signage, is approved with this permit. Any proposed signage shall be approved by the Director of Planning, Building, and Code Enforcement.
28. **Tree Removals.** Four ordinance-sized trees are authorized for removal with this permit. The ordinance-sized trees include three Fan Palms and one Tree of Heaven. Three other non-ordinance sized Tree of Heaven specimens are also approved for removal. No other tree larger than 56 inches in circumference, measured at a height of 24 inches above the natural grade, shall be removed without a Planned Development Permit Amendment or a Tree Removal Permit issued by the Director of Planning, Building and Code Enforcement. Removal of trees less than 56 inches in circumference shall require approval of the Director of Planning, Building and Code Enforcement through issuance of a Permit Adjustment.
29. **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. The tot lot shall be removed and landscaping and irrigation shall be provided within that area at the northeast corner of the site.
30. **Permeable Pavement.** Permeable paving materials shall be used whenever feasible, particularly for pedestrian paths.
31. **Disconnected Downspouts.** Whenever feasible, disconnected downspouts shall be used to direct water to landscaped areas or pervious surfaces before entering public storm drains.
32. **Tot Lot.** No portion of the tot lot equipment shall exceed twelve (12) feet in height. The hours of use of the tot lot shall be posted at the site and shall be limited to 8 a.m. to 9 p.m.
33. **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, PD 05-043, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card,

Form 200-14, with the City of San José Police Department.

- c. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- d. *Street Number Visibility.* Numbers of the buildings shall be easily visible at all times, day and night.
- e. *Lock Boxes.* The project developer shall provide lock boxes for all gates to the satisfaction of the Chief Building Official and the Fire Chief.
- f. *Mechanical Equipment.* No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise level from such equipment will not exceed 55db DNL at the residential property line.
- g. *Mechanical Ventilation.* Mechanical ventilation shall be provided in accordance with Uniform Building Code requirements when windows are to be used for noise control.
- h. *Interior Noise Levels.* As recommended in the acoustical analysis, appropriate construction methods shall be used to reduce interior noise to an acceptable level.

34. **Police Department Requirements.** The following requirements shall be provided to the satisfaction of the Director of Planning, Building, and Code Enforcement:

- a. *Address Numbers.* All buildings shall be clearly marked by address numbers at both the front porch and rear garage areas.
- b. *Exterior Lighting.* Adequate lighting should be installed in the vehicle access lanes where the garages are located.

35. **Homeowner's Association.** A Homeowner's Association shall be established for maintenance of all common areas, including driveways/courtyards and landscaping. A copy of the Development Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowners Association by the applicant no later than 30 days upon completion of each phase.

36. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

37. **Enclosures/Screening.** Utility structures shall be enclosed or screened to match existing/proposed fencing, screening or landscaping.

- 38. **American Disabilities Act.** The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- 39. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
- 40. **Walls/Fence Height/Location.** Walls and fencing for the project shall conform to the design standards shown in the approved Planned Development Permit plans.
- 41. **Garage Parking Spaces.** All garage parking spaces shown on the approved Planned Development Permit plans are to be used only as such and shall be kept free and clear of all obstructions. No conversion of any garages to living space or any other use is permitted.
- 42. **Archaeology.** 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 this State Law, then the applicant shall re-enter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

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43. **Affordability.** Applicant shall comply with City's Inclusionary Housing Policy in connection with any and all portions of the Project involving the construction or rehabilitation of residential units that will be located in a redevelopment project area, and Applicant shall record or cause the recordation against the real property upon which the residential units will be located the affordability restrictions approved by the San Jose Redevelopment Agency, which recordation shall occur with the Recorder's Office of the County of Santa Clara prior to the issuance of a building permit for the Project.

ADOPTED of title this 15th day of August 2006 by the following vote:

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

NOES: NONE

ABSENT: PYLE; GONZALES

DISQUALIFIED: NONE

CINDY CHAVEZ
Vice Mayor

ATTEST:

LEE PRICE, MMC
City Clerk