

## PLANNED DEVELOPMENT PERMIT

**FILE NO.** PD10-007

**LOCATION OF PROPERTY** West side of Cadwallader Avenue,  
approximately 500 feet southerly of  
Prunetree Lane.

**ZONING DISTRICT** A(PD) Planned Development

**ZONING FILE NUMBER** PDC09-010

**GENERAL PLAN DESIGNATION** Low Density Residential (5 DU/AC)  
Estate Residential (1 DU/AC), &  
Rural Residential (0.2 DU/AC) (*Silver  
Creek Planned Residential Community*)

**PROPOSED USE** Construction of 41 single-family  
detached residences on an 18.49 gross  
acre site.

**ENVIRONMENTAL STATUS** Reuse of the Mitigated Negative  
Declaration for File Nos. GP08-08-04  
and PDC10-010

**OWNER/ADDRESS** ACS Properties  
255 W. Julian Street, Suite 502  
San Jose, CA 95110

Tedrow Living Trust  
4083 Cadwallader Avenue  
San Jose, CA 95121

Cheryl Larios  
P.O. Box 737  
Hollister, CA 95024

Michael & Laura Pianka  
3913 CADwallader Avenue  
San Jose, CA 95121

Margaret Oxsen  
3905 Cadwallader Avenue  
San Jose, CA 95121

## **FACTS**

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This subject site has a designation of Low Density Residential (5 DU/AC), Estate Residential (1 DU/AC) and Rural Residential (0.2 DU/AC) (*Silver Creek Planned Residential Community*) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The site is zoned A(PD) Planned Development. The Planned Development Zoning (File No. PDC09-010) was reviewed by the City Council and approved with Ordinance No. 28721 adopted February 9, 2010.
3. The proposed residential density is 2.5 DU/AC.
4. The subject lot contains approximately 18.49 gross acres and 16.25 net acres.
5. The site is currently developed with five (5) single-family detached residences of which two (2) of the residences are proposed to be demolished with this permit.
6. The project proposes the construction of 38 single-family detached units on the subject site.
7. The Planned Development Zoning requires a two (2) car garage for each unit and establishes setbacks for individual lots.
8. The proposed project will meet all of the development regulations set forth in Planned Development Zoning, File No. PDC09-010, including but not limited to heights, setbacks, densities, parking and environmental mitigation.
9. An Initial Study was prepared for this project, and the Director of Planning circulated a Mitigated Negative Declaration for public review that was adopted on May 27, 2009. The key issues addressed in the Initial Study included the impacts of air quality, biological resources, geology and soils, hazards and hazardous materials, and transportation and traffic on the site. The project includes mitigation measures that reduce any potentially significant impacts to a less than significant level.

## **FINDINGS**

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan, in that:
  - a. The proposed development conforms to the site's General Plan Land Use/Transportation Diagram designation in that the proposed use and density of 2.5 DU/AC are consistent with the blended density of the site's Rural Residential (0.2 DU/AC), Estate Residential (1 DU/AC), and Low Density Residential (5 DU/AC) land use designations and the development is compatible with the surrounding area.
  - b. The project furthers the General Plan's Housing Major Strategies by providing housing opportunities on infill property that is already served by existing urban services.
  - c. The project maintains the existing pattern of development in the immediate vicinity.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property in that:
  - a. The proposed project conforms to the approved General Development Plan.

3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious, in that:
  - a. The Planned Development Zoning and this permit require that the architectural design of the houses shall conform to the standards of the Single-Family Design Guidelines.
4. The environmental impacts of the project including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor, which, even if insignificant for the purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties. Any potential negative effects on adjacent property or properties have been addressed in that:
  - a. A Mitigated Negative Declaration that was adopted on May 27, 2009 addressed the environmental impacts of this project.
  - b. The project will not result in any reasonably foreseeable environmental impacts.

Further, the Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that the proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.

Based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Section 20.80.440(B) and Chapter 20.100 of the San José Municipal Code, the subject Planned Development Permit.

**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:
2. Acceptance of the Permit by the applicant; and
3. 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.
4. **Permit Expiration.** This Planned Development Permit shall automatically expire four (4) years from and after the date of issuance hereof by said Director, if within such four year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning 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. **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.

6. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
7. **Conformance to Plans.** Development of the site shall conform to approved Planned Development plans entitled "*Specific Development Plan Lands of Cirelli, Tedrow, Bartlett, Pianka & Tran - 41 Single Family Detached Residential*" last dated *May 10, 2010*, 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), with the exception of any subsequently approved changes.
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. **Conformance with Previously Approved Zoning and Environmental Clearance.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning (File no. PDC09-010) remain in effect.
10. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
11. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of territory not covered by the permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.
12. **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 Chapter 20.100 of the San Jose Municipal Code.
13. **Construction Impact Mitigation Measures.** The applicant is responsible for notifying all contractors of the conditions of this permit and that they shall perform construction activities in compliance with these conditions, or be subject to enforcement action.
  - a. *Compliance.* 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, 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. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
  - b. *Construction Hours.* Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. Interior construction activities that do not generate any audible

noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.

- c. *Plans.* The construction hours shall be printed on all plans for the project used to construct the project.
- d. *Enforcement.* The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.
- e. *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 opening of the gates to prevent the disruption of nearby residents.
- f. *Fencing.* The site shall be wholly enclosed by security fencing where the site is accessible by vehicles. The gates to the project site shall remain locked during all other times, except for a 30-minute period immediately preceding and following the above hours of construction.
- g. *Assembly Area.* Workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location without adjacent residential units for workers to wait prior to the opening of the project gates.
- h. *Disturbance Coordinator.* A Construction/Disturbance Coordinator shall be identified by the developer for this project. The Construction/Disturbance Coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other nuisance compliance conditions in this permit. The coordinator shall also compile information regarding construction phasing/operations and keep the neighborhood informed of the stages of development. The coordinator shall also listen and respond to neighborhood concerns regarding construction, determine the cause of the concern (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem in a timely manner. The coordinator shall maintain a log of calls and shall make that log available to the City of San Jose upon request.
- i. *Construction Equipment.* Equip all internal combustion engine-driven equipment with mufflers which are in good condition and appropriate for the equipment.
  - i. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
  - ii. Locate stationary noise-generating equipment as far as possible from sensitive receptors. Staging of construction equipment will be as far as feasible from the sensitive receptors.
  - iii. Prohibit unnecessary idling of internal combustion engines.
- j. *Posting of Telephone Number.* The name and phone number of the construction/Disturbance coordinator, the hours of construction limitations, City File Number PD10-007, City contact and phone number, shall be displayed on a weatherproof sign posted at each entrance to the project site. A local phone number with answering service shall be maintained during the duration of project construction.

- k. *Street Cleaning and Dust Control.* During construction, the developer shall damp-sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
- l. *Construction Watering.* The proposed project shall use recycled water for all grading, dust control, and other non-potable approved uses during construction to the satisfaction of the Director of Public Works.
- m. *Recycling.* Scrap construction and demolition material should be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
- n. 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.
- o. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard.
- p. 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.
- q. 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.
- r. Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- s. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- t. Enclose, cover, water at least twice daily, or apply not-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site.
- u. Limit traffic speed on unpaved roads to 15 mph.
- v. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- w. Replant vegetation in disturbed areas as quickly as possible.
- x. Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
- y. Install wind breaks, or plant trees/ vegetative wind breaks at windward side(s) of construction areas.
- z. Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph.
- aa. Limit the area subject to excavation grading, and other construction activity at any one time.
- bb. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR 1532.1, including employee training, employee air monitoring and dust control. Any debris

or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the waste being disposed.

14. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
- 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:** This project is located within the new Evergreen East Hills Development Policy (EEHDP) area.
    - a) The project proposes 41 residential units on the subject site. Of the 41 units proposed, there are 6 existing traffic allocations which reduces the amount of net new units to the site to 35 units (5 existing residential units + 1 paid traffic allocation on Assessor's Parcel Number 676-23-010.)
    - b) Under the EEHDP, new residential development will require allocation from the pool of 500 new residential units which includes payment of a Traffic Impact Fee (TIF). The fee per residential unit is \$13,214 and is projected to be \$462,490 for the project's 35 units. This fee is due and payable to the City prior to the issuance of building permits.

Based on this, we conclude that this project will be in conformance with this policy and that no further traffic report is required.
  - c. **Traffic Operational Analysis:** A traffic operational analysis was prepared to study the extension of Cadwallader Ave. to Niemen Blvd. Traffic counts were conducted on eight (8) roadway segments within the neighborhood in order to determine the existing traffic volumes and the effect of connecting Cadwallader Ave. to Niemen Blvd. The data collected in the area was particularly high on three streets segments, Yerba Buena Ave. at the bridge, Cadwallader Ave. adjacent to the school, and Nieman Blvd. Currently, Loganberry Dr. which connects to Cadwallader Ave. is carrying approximately 360 vehicles Average Daily Trips (ADT). With the proposed new Cadwallader Ave. to Niemen connection, the new street is projected to carry up to 6,600 ADT, well over the typical capacity of 1800 ADT for a neighborhood street. In addition, it is projected that Loganberry Dr. ADT will increase from 360 vehicles ADT to 3,120 vehicles ADT. In addition to providing another direct route to the neighborhood school, the proposed connection would create a more direct route to Nieman Blvd. and redistribution to this new street from the surrounding neighborhood streets. Therefore, Public Works and DOT staff are not recommending the connection of Cadwallader Ave. to Niemen Blvd. based on our conclusion that the extension of new public street to Cadwallader Ave. would create an unfair ADT burdens on the new street and existing neighborhood streets such as Loganberry Ave.
  - d. **Grading/Geology:**
    - a) The project applicant shall submit a grading/drainage plan to address the following:
      - i) Proposed cross-sections at the property lines of all lots proposed for development within the project site. As this project is proposed to be constructed as individual lots with different owners, these cross-sections shall include two scenarios:

- a) Scenario 1: Development and grading on both properties shown in the cross-section
- b) Scenario 2: Development and grading on only one of the lots as the timing of each lot development is unclear.

Please note that a base level of grading **may be** required prior to approval of the Tract Map in order to accomplish the conceptive grading of the entire development.

- b) A grading permit is required prior to the issuance of a Public Works Clearance.
  - c) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
  - d) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
  - e) A Geologic Hazard Clearance was issued on December 4, 2009.
- 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.
- a) The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
  - b) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
  - c) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating the all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
- f. **Stormwater Peak Flow Control Measures:** Based on the recently adopted Municipal Regional Stormwater NPDES Permit (MRP), this project is required to comply with the requirements of the watershed-wide Hydromodification Management Plan (HMP) City Council Policy 8-14 to control projects hydromodification (HM) impacts that can cause increased erosion and other impacts to beneficial uses of local rivers, streams and creeks.
- a) The project's conceptual HM design has been reviewed staff. Prior to issuance of a Grading permit or any subdivision map, the applicant will submit a final HM plan to reflect the City's minimum criteria for detention orifice sizing, etc.
  - b) Meeting with Applicant: Due to the size and complexity of this projects HM design, we anticipate additional issues may surface with subsequent review and revised HM plans. We recommend that a meeting with the Developer and his representatives be scheduled as soon as possible to answer any questions regarding Public Works comments or issues. Please note that changes to the

project's HM design may require a future adjustment or amendment to the Planning permit.

- g. **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.
- h. **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.
- i. **Municipal Water:**
  - a) This site is within the CSJ Municipal Water Service Area. In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Tim Town at (408) 277-3671 for further information.
  - b) Contact Tim Town regarding potential relocation of the water line easement, if needed.
- j. **Assessments:** A portion of this project is located within Zone B of Maintenance District 15 which maintains special amenities within the district such as enhanced landscaping in the median islands on portions of Nieman Boulevard, Silver Creek Valley Road, and Yerba Buena Road. Properties within the districts pay for the maintenance through annual assessments placed on the property tax bills. The remainder of the project is adjacent to Zone B of Maintenance District 15. If access to these homes is obtained through Nieman Boulevard or any streets within this district, annexation to the District may be required prior to subdivision of land and each property will be subject to the annual District Assessment. For example, the 2008-2009 assessment is \$31.26 per residential unit, which is adjusted annually by the Consumer Price Index.
- k. **Street Improvements:**
  - a) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontages.
  - b) Construct curb, gutter, and sidewalk along Cadwallader Avenue frontage.
  - c) Close unused driveway cut(s).
  - d) Dedication and improvement of the new public street to the satisfaction of the Director of Public Works.
  - e) Install public cul-de-sac at easterly terminus of the proposed new public street adjacent to Cadwallader Avenue.
  - f) Construct an Emergency Vehicle Access point and pedestrian access path (between Lot 5 and Lot 38) at the terminus of the new public street cul-de-sac that connects to Cadwallader Avenue.
  - g) Construct a new public street that will accommodate a safe transition to Nieman Boulevard. The design of the sag vertical curve shall accommodate sufficient stopping distance, rider comfort, and general appearance.
  - h) Repair, overlay, or reconstruction of asphalt pavement may be required on Cadwallader Avenue. 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.
- l. **Storm - Overland Release**
  - a) Provide a paved overland release path between Lot 5 and Lot 38 to accommodate the drainage from the proposed downhill cul-de-sac located near Cadwallader Avenue.
  - b) Indicate overland release path with arrows.

- c) On-site ponding must be less than one foot.
- d) Finished floor elevations must be one foot higher than overland release elevation.

**m. Electrical:**

- a) Install electroliers on the new public street frontage.
  - b) Existing electroliers along the existing project frontages will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
  - c) To assist the Applicant in better understanding the potential cost implications resulting from these requirements, the electroliers along the project frontage can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 15 working days.
- n. **Street Trees:** Replace any missing street trees on existing street frontages (Cadwallader Avenue and Nieman Boulevard) and install street trees on new public street per City standards. Obtain a DOT street tree planting permit for any proposed street tree plantings. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 277-2756 for the designated street tree.

15. **Parkland Dedication Ordinance.** This development is subject to the requirements of the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code,) for the dedication of land or payment of fees in lieu of the dedication of land for park purposes, under the formula contained with that Chapter. Prior to approval of the Final Map or final building permits for this development, the applicant shall enter into a parkland agreement with the City to the satisfaction of the Director of Public Works in order to fulfill the requirements of the Parkland Dedication Ordinance.

16. **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. *Park Impact Fees.* The applicant shall provide evidence to the Chief Building Official that the applicable Park Impact Fees, pursuant to Ordinance 24172 (Chapter 14.25 of Title 14 of the San José Municipal Code), have been paid to the satisfaction of the Director of Public Works.
- b. *Construction Plans.* This permit file number, **PD10-007**, shall be printed on all construction plans submitted to the Building Division.
- c. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- d. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- e. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
- f. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

17. **Green Building.** Prior to the issuance of any shell or complete building permits for more than one “model” unit issued after September 8, 2009 for the construction of buildings approved through the scope of this *Planned Development Permit*, the applicant shall pay a Green Building Refundable Deposit. The project must receive the minimum green building certification of LEED Certified or GreenPoint Rated. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code. In the event that building permits are issued for individual units and not a more than one “model” unit, the applicant will need to submit a green building checklist prior to the issuance of a building permit.
18. **Fire Clearance for Issuing Permits.** The Fire Department’s review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
19. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by the Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
20. **Fire Retardant Roof.** All buildings shall have fire retardant roofs subject to the satisfaction of the Fire Chief.
21. **Homeowner’s Association/Maintenance District.** A Homeowner’s Association or Maintenance District shall be established for maintenance of all common areas, including pedestrian walkways, easements, creek areas that are not dedicated, and landscaping, etc. The applicant shall provide to the Homeowners Association 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 within 30 days of completion of each construction phase.
22. **Trees.** The removal of 18 ordinance size trees is included with the approval of this permit. Prior to commencement of and during removal of any ordinance-size tree pursuant to this Permit, the applicant shall post on the site, or cause to be posted, a copy of this validated Permit in conformance with the following:
  - a. The copy of the permit shall be a minimum size of 8.5 by 11.0 inches; shall be posted at each public street frontage within 2 feet of the public sidewalk or right-of-way; and shall be posted in such a manner that the permit is readable from the public sidewalk or right-of-way; or
  - b. If the site does not have a public street frontage, a copy of the permit shall be posted at a location where the permit is readable from a common access driveway or roadway.
  - c. **Presentation of Permit.** During removal of any ordinance-size tree pursuant to this permit, the applicant shall maintain the validated permit on the site and present it immediately upon request by the Director of Planning, Building and Code Enforcement, Police Officers or their designee.
23. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent 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.

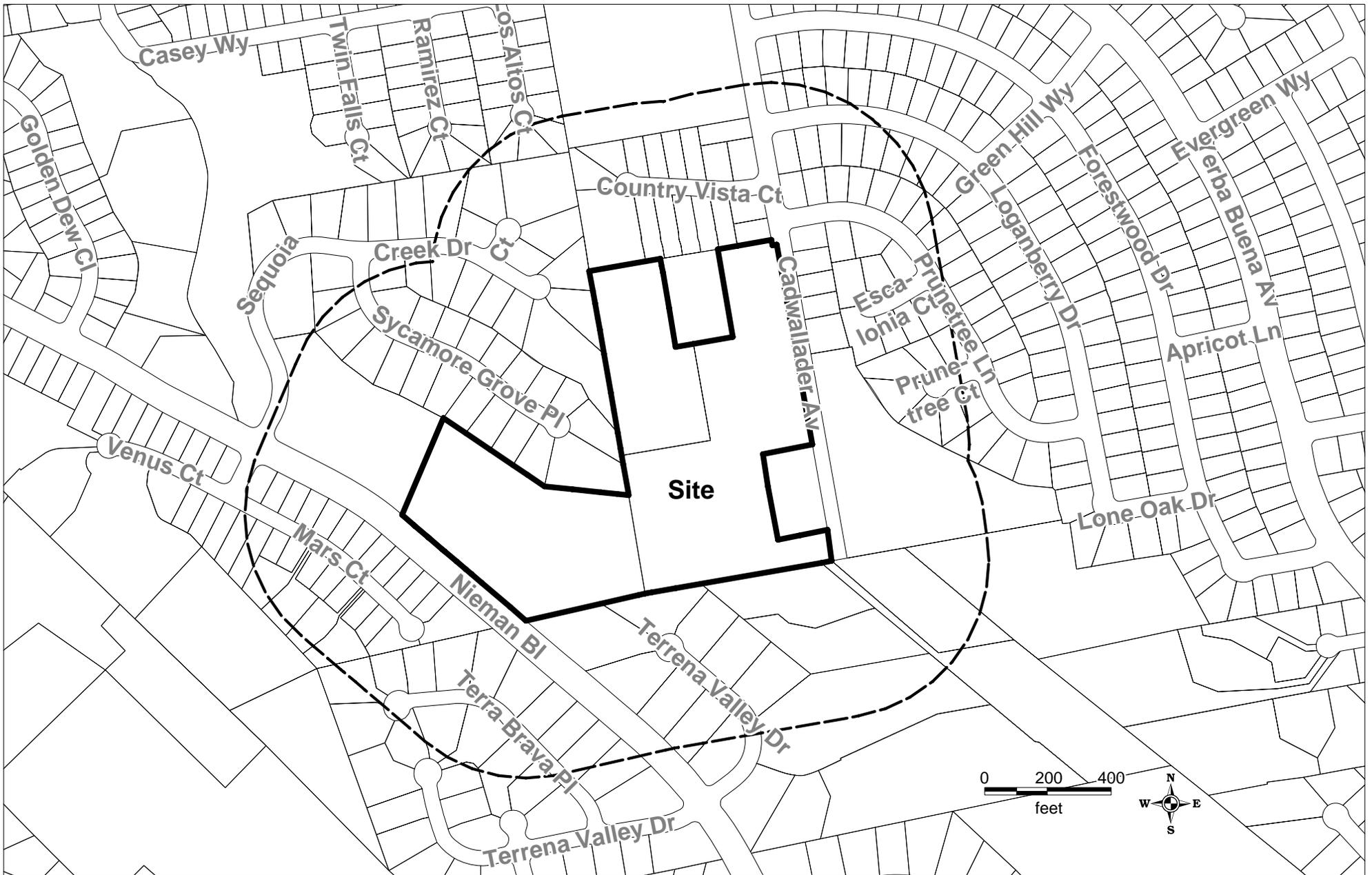
24. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San Jose Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect prior to Certificate of Occupancy.
25. **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.
26. **Storm Water Stenciling.** All drain inlets shall be labeled “No Dumping—Flows to Bay.” Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.
27. **Planned Development Permit Amendment Required.** Specific architecture and floor plans are not approved as a part of this permit. Each lot shall require the approval of a Planned Development Permit Amendment.
28. **Architecture.** The architectural design of the houses shall conform to the standards of the Single-Family Design Guidelines.
29. **Lighting.** On-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
30. **Fencing.** Fence height and materials shall be as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
31. **Accessory Structures.** Accessory structures must conform to R-1-8 standards, as amended, and are subject to the review of the Director of Planning, Building, and Code Enforcement.
32. **Additions.** All additions are subject to the review of the Director of Planning, Building, and Code Enforcement.
33. **Tract Sales Office/Model Homes.** This permit does not include the approval of a tract sales office/model homes complex. Such use requires a Permit Adjustment approved by the Director of Planning.
34. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

**APPROVED** and issued on this **19<sup>th</sup> day of May, 2010.**

Joseph Horwedel, Director  
Planning, Building, and Code Enforcement

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Deputy



File No: PD10-007  
District: 8

Noticing Radius: 500 Feet



Prepared by the Department of Planning,  
Building, and Code Enforcement  
4/14/2010