

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD09-033
LOCATION OF PROPERTY	North side of Ford Road, approximately 550 feet easterly of Monterey Road
ZONING DISTRICT	A(PD) Planned Development
ZONING FILE NUMBER	PDC09-022
GENERAL PLAN DESIGNATION	Office
PROPOSED USE	Construction of 95 affordable multi-family attached residences on a 3.06 gross acre site.
ENVIRONMENTAL STATUS	Reuse of the Mitigated Negative Declaration for File No. PDC09-022
OWNER/ADDRESS	City of San Jose Housing Department 200 E. Santa Clara Street, 12th Floor San Jose, CA 95113

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 Office 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. PDC09-022) was reviewed by the City Council and approved with Ordinance No. 28673 adopted November 17, 2009.
3. The proposed residential density is 31 DU/AC.
4. The subject lot contains approximately 3.06 net acres.
5. The site is currently undeveloped.
6. The project proposes the construction of 95, 100% affordable, multi-family attached residential units on the subject site.
7. The proposed project will meet all of the development regulations set forth in Planned Development Zoning, File No. PDC09-022, including but not limited to heights, setbacks, densities, open space, parking and environmental mitigation.

8. 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 December 3, 2009. The key issues addressed in the Initial Study included the impacts of air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, and noise 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 rezoning under File No. PDC09-022 was found consistent with the site's San Jose 2020 General Plan Land Use Transportation Diagram land use designation of Office under the Discretionary Alternate Use Policy for the Location of Projects Proposing 100% Affordable Housing.
 - b. The project furthers the General Plan's Growth Management Major Strategy, as the project provides infill development within an urbanized area.
 - c. 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.
 - d. The project will further Housing Policy No.4, as it will add to the production of affordable housing.
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 its development standards were found consistent with the Residential Design Guidelines, and this permit is in conformance with the development standards.
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 December 3, 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 "*Ford and Monterey Housing, Eden Housing, Inc.*" last dated *February 12, 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 approved Planned Development Zoning (File no. PDC09-022) 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 *Posting of Telephone Number.* The name and phone number of the construction/Disturbance coordinator, the hours of construction limitations, City File Number PD09-033, 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.
 - j *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.
 - 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.
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. **Grading/Geology:**

- i. A grading permit is required prior to the issuance of a Public Works Clearance.
- ii. 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.
- iii. 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.
- iv. The Project site is within the State of California Seismic Hazard Zone. A geotechnical 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 (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). 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. 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) Final inspection and maintenance information on the post-construction treatment control measures must be included on the final Stormwater Control Plan.
- b) 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 that 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.

d. **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.

e. **Street Improvements:**

- i. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
- ii. Construct 10' attached sidewalks with tree wells at the back of curb along project frontage.
- iii. Close unused driveway cut(s).
- iv. 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.

- f. **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.
 - g. **Street Trees:** Install street trees within public right-of-way along entire project street frontage per City standards. The locations of the street trees will be determined at the street improvement stage. Contact City Arborist at (408) 277-2756 for the designated street tree. Street trees shall be installed in cut-outs at the back of curb.
 - h. **Private Streets:** In the future, if this apartment project converts to condominiums, it will be required that private streets and infrastructure comply with current Common Interest Development Standards, which may result in the reconstruction or modification of all private infrastructure. The developer has the option to construct the project in accordance with CID standards at present time if conversion is anticipated in the future.
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, **PD09-033**, 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.** The development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or 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 applicable to the gross square footage for the buildings that are approved through this Planned Development Permit. 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

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 Retardant Roof. All buildings shall have fire retardant roofs subject to the satisfaction of the Fire Chief.

20. Environmental Mitigation.

Air Quality

- a. Use dust-proof chutes for loading construction debris onto trucks.
- b. Water to control dust generation during demolition of structures and break-up of pavement.
- c. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- 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.).
- g. Install erosion control measures to prevent silt runoff to public roadways.
- h. Replant vegetation in disturbed areas as quickly as possible.
- i. Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
- j. Install wind breaks, or plant trees/ vegetative wind breaks at windward side(s) of construction areas.
- k. Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph; and
- l. Limit the area subject to excavation grading, and other construction activity at any one time.

Biological Resources

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

indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

- b. The two trees to be removed shall be replaced at the ratios shown in Table 7.3-1.

Table 7.3-1: Tree Replacement Requirements			
Diameter of Tree to be Removed	Native	Non-Native	Minimum Size of Each Replacement Tree
17.8 inches or greater (56 inches Circumference)	5:1	4:1	24-inch box
12 – 17.8 inches (37.7 – 56 inches Circumference)	3:1	2:1	24-inch box
Less than 12 inches (Less than 37.7 inches Circumference)	1:1	1:1	15-gallon container

[†] X:X = tree replacement to tree loss ratio.

Cultural Resources

- a. A qualified archaeologist shall be retained to observe site clearing and initial grading and trenching operations until he/she is satisfied that there is no further potential for the discovery of buried archaeological deposits.
- 1) If no resources are discovered, the archaeologist shall submit a report to the City’s Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
 - 2) If evidence of any archaeological, cultural, and/or historical deposits are found, 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) In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. 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:
 - a) 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 land owner 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.

- b) A final report shall be submitted to the City's Environmental Principal Planner prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Environmental Principal Planner.
- b. In the event archaeological deposits are discovered, further earthmoving work shall halt within parcel borders and the City of San José shall complete its Section 106 responsibilities per 36 CFR Part 800, including the following:
 - The State Historic Preservation Officer (SHPO) shall be notified within 48 hours of discovery.
 - The notification shall describe the agency official's assessment of National Register eligibility of the property and proposed actions to resolve the adverse effects.
 - SHPO shall respond within 48 hours of the notification with recommendations regarding National Register eligibility and the proposed actions to resolve the adverse effects.
 - The City of San Jose shall take into account SHPO's recommendations regarding National Register eligibility and proposed actions to resolve the adverse effects and carry out the appropriate actions.
 - The agency official shall provide SHPO a report of the actions when they are completed.

Geology and Soils

- a. The project shall incorporate all recommendations set forth in the geotechnical investigation prepared for the development by *AMSO Consulting Engineers* on February 20, 2009.
- b. The proposed project would be designed and constructed in conformance with the 2007 California Building Code Guidelines for Seismic Site Class D to avoid or minimize potential damage from seismic shaking on the site.
- c. A soil investigation report addressing the potential hazard of liquefaction shall be submitted to the City Geologist for review and approval, 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).

Hazards and Hazardous Materials

- a. As a part of project grading, the top two feet of soil on the site that would not be covered with buildings or pavement shall be replaced with clean soil, so as to avoid impacts from naturally occurring asbestos (NOA). The contaminated soils shall be removed and disposed of at an appropriate facility, to the satisfaction of the Director of Public Works.
- b. Future owners will be notified that they may encounter asbestos in any subsurface excavations greater than two feet in depth and that special precautions will be required to comply with adopted standards to reduce risks to an acceptable level. Future owners

will also be advised of the excavation precautions necessary if they plan to install a spa or pool.

- c. The Asbestos Airborne Toxic Control Measure (ATCM) issued by the California Air Resources Board requires construction areas with naturally occurring asbestos (NOA) to employ the best available dust mitigation measures. The proposed project will meet the requirements of the ATCM. The ATCM requirements for construction and grading operations that will disturb more than one acre of soil containing NOA are summarized below:
 - Prepare and obtain approval from the Bay Area Air Quality Management District (BAAQMD) for an Asbestos Dust Mitigation Plan prior to any construction or grading activity;
 - The Asbestos Dust Mitigation Plan must specify how the operation will minimize emissions and must address specific emission sources;
 - Prevent visible emissions from crossing the project boundaries regardless of the size of the disturbance.
 - The Asbestos Dust Mitigation Plan dust mitigation described above shall be submitted to the City's Environmental Compliance Officer.

Hydrology and Water Quality

- a. 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, 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) to control the discharge of stormwater pollutants including sediments associated with construction activities.
 - The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).
- b. 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, San José, California 95113. 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) 535-8300.
- c. The project applicant shall comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José 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:

- Restriction of grading to the dry season (April 15 to October 15) or meet City requirements for grading during the rainy season.
- Utilize on-site sediment control BMPs to retain sediment on the project site.
- Utilize stabilized construction entrance and/or wash racks.
- Implement damp street sweeping.
- Provide temporary cover of disturbed surfaces to help control erosion during construction.
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

Noise

- a. A minimum eight-foot noise barrier shall be constructed along the westernmost boundary shared with the adjacent shopping center to reduce noise from adjacent commercial activities.
- b. To the extent feasible, outdoor use spaces shall be designed to limit noise levels associated with Ford Road, US 101, and the adjacent commercial uses. An acoustical analysis completed for the project shall confirm final site design utilizes buildings and other noise barriers to acoustically protect outdoor areas.
- c. Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for units throughout the site, so that windows could be kept closed at the occupant's discretion to control noise and achieve the 45 dBA DNL interior noise standard. Standard building construction with the windows closed provides approximately 20 to 25 decibels of attenuation.
- d. Sound rated windows and doors shall be provided for residential units adjacent to the shopping center in order to reduce maximum noise levels from commercial activities to below 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms and reduce the potential for sleep disturbance and activity interference indoors. Preliminary calculations indicate that sound-rated windows and doors with a sound transmission class rating of STC 28 to 30 would be sufficient. The specific determination of the necessary noise insulation treatments shall be completed during final design of the project. Results of an acoustical analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved by the City Building official prior to issuance of a building permit.

Construction Noise

- a. Noise-generating activities at the construction site or in areas adjacent to the construction site associated with the project in any way shall be restricted to the hours of 8:00 AM to 6:00 PM with no construction activities on Sundays or holidays.
- b. Use noise suppression devices and maintain and muffle loud construction equipment.
- c. Avoid the unnecessary idling of equipment and stage construction equipment as far as reasonable from residences east and north of the site (preferably more than 200 feet from these residences).
- d. Notify adjacent residents to the project site of the construction schedule.
- e. Locate stationary noise generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors.

- f. Construct temporary noise barriers to screen stationary noise generating equipment when located near adjoining sensitive land uses.
- g. Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- h. Control noise from construction workers' radios to a point that they are not audible at existing residences bordering the project site.
- i. Prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall be prepared by the contractor and shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.
 - Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented. Post the telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Public Services

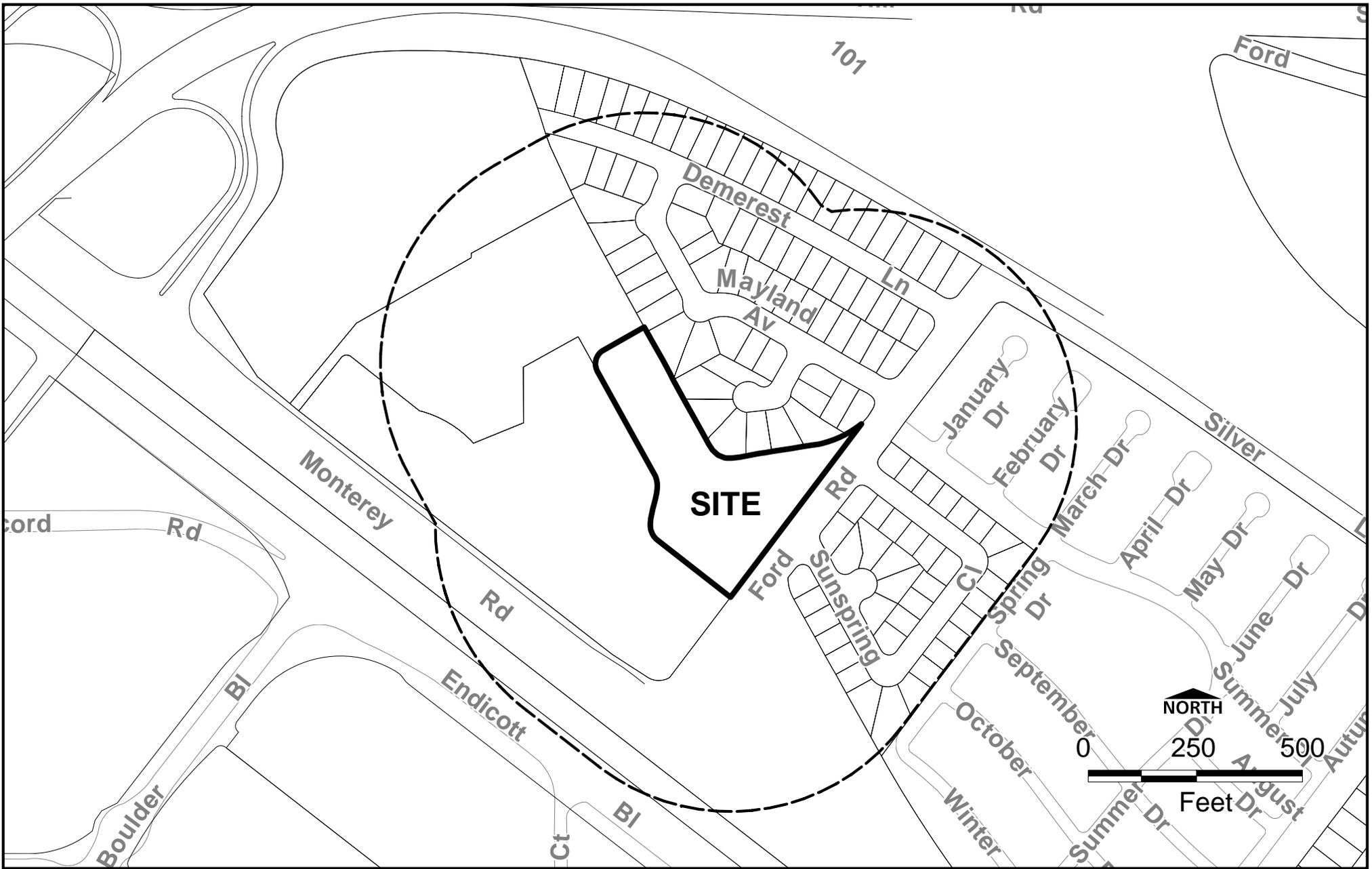
- a. In accordance with California Government Code Section 65996, the developer shall pay a school impact fee, to the School District, to offset the increased demands on school facilities caused by the proposed project.
21. **Trees.** The removal of 2 ordinance size trees is included with the approval 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.
22. **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.
23. **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.

24. **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.
25. **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.
26. **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.
27. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

APPROVED and issued on this 23rd day of June, 2010.

Joseph Horwedel, Director
Planning, Building, and Code Enforcement

Deputy



File No.: PD09-033
District: 2

NOTICING RADIUS: 500 FEET



Prepared by the Department of Planning,
Building and Code Enforcement

10/22/2009