

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD12-027
LOCATION OF PROPERTY	West side of Union Avenue, approximately 100 feet southerly of Barrett Avenue (4525 Union Avenue)
ZONING DISTRICT	A(PD) Planned Development (PDC91-077)
GENERAL PLAN DESIGNATION	Public/Quasi-Public
PROPOSED USE	Planned Development Permit to allow redevelopment of the existing 7.7 acre former Santa Clara County Children's Shelter campus including demolition of two existing 4,800 square foot buildings, construction of a new 17,500 square foot multi-purpose building, a 2,500 square foot accessory structure and other improvements for a private elementary school for up to 600 pre-K through 5th grade students
ENVIRONMENTAL STATUS	Mitigated Negative Declaration
OWNER	Santa Clara County 4525 Union Avenue San José, CA 95124
APPLICANT	The Harker School 3800 Blackford Avenue San José, CA 95117

FACTS

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

1. The subject site has a land use designation of Public/Quasi-Public on the Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The project site is located in the A(PD) Planned Development Zoning District.
3. Following its use as Lewis Parker Elementary School by the Union School District the property was redeveloped in the early 1990s into the Santa Clara County Children's Shelter with 11 buildings comprising approximately 76,000 square feet, including classrooms, cafeteria, living quarters, and play areas.
4. The site is currently occupied by the Children's Foster Care Relocation Intake and Assessment Center operated by Santa Clara County.

5. This Planned Development Permit will allow redevelopment of the existing site with a private elementary school for a maximum enrollment of 600 pre-K through 5th grade students. Initially the school would operate as a preschool, serving up to 120 pre-K students. At campus build-out the preschool use would be replaced with up to 600 K-5th grade students.
6. Nine of the existing buildings will be retained as part of the proposed school. Two of the existing approximately 4,800 square foot classroom buildings will be demolished.
7. Under the provision of Section 20.80.400(A) of the San José Municipal Code, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.
8. A new two-story, 34-foot tall, approximately 17,500 square foot multipurpose building will be constructed near the center of the site surrounded by existing buildings.
9. A new 2,500 square foot pool building, including boys and girls locker rooms, for a new swimming pool will be constructed adjacent to the existing gymnasium building.
10. A new driveway and turn-around will be constructed along the southerly property line for student drop-off/pick-up and queuing.
11. The parking required for the initial preschool use is based on 1 space per 6 children, up to 5 spaces and thereafter 1 space per 10 children. For the proposed 120 pre-K students 14 parking spaces are required.
12. The parking required for elementary schools is based on 1 space per teacher, plus 1 space per employee. With a maximum total of 100 teachers and employees 100 parking spaces are required.
13. The site includes a total of 130 parking spaces. 116 spaces are located in the existing front parking area and 14 new parking spaces are located along the proposed drop-off/turn-around.
14. The site can accommodate an additional up to 160 parking spaces on the proposed new athletic field for special event parking.
15. Vehicular access to the site is provided by two driveways along Union Avenue. Union Avenue is a four-lane north-south roadway that connects Route 85 to the south and Camden Avenue to the north.
16. One Ordinance Size tree, a 60-inch circumference London Plane tree is proposed for removal. The tree is located within the proposed new athletic field/overflow parking area.
17. The request for a tree removal permit pursuant to the provisions of Chapter 13.32 may be included as part of an application for development permit under the provisions of Title 20.
18. Surrounding the subject site are single-family detached residential uses to the north and west, industrial R&D office uses to the south, and single-family detached residential uses to the east across Union Avenue.
19. Pursuant to the State Guidelines for implementation of the California Environmental Quality Act (CEQA), an Initial Study and Mitigated Negative Declaration were prepared by the Director of Planning, Building, and Code Enforcement for the subject Planned Development Permit. The documents were circulated for public review between August 24, 2012 and September 24, 2012.

FINDINGS

After investigation and hearing held pursuant to Chapter 13.32 of the San José Municipal Code, the Director of Planning finds:

1. That the tree is of an affected size, type and condition, and are in such a location in such surroundings, that their removal would not significantly frustrate the purposes of Chapter 13.32; and
2. That the location of the trees with respect to the proposed improvement unreasonably restricts the economic development of the parcel in question.

Further, the Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that under the provisions of Section 20.80.400(A) of the San José Municipal Code, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.

1. The Director of Planning has considered, pursuant to Section 20.80.460, the following criteria in evaluating the proposed demolition:
 - a. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
 - b. The failure to approve the permit would jeopardize public health, safety or welfare.
 - c. The approval of the permit would not negatively impact the supply of existing housing stock in the City of San José.
 - d. Both inventoried and non-inventoried buildings, sites and districts of historical significance will not be negatively impacted.
 - e. Rehabilitation or reuse of the existing building would not be feasible.
 - f. The approval of the demolition of the building should facilitate a project that is compatible with the surrounding neighborhood.
 - g. Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that:
 - h. The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
 - i. The proposed project is in conformance with the California Environmental Quality Act.
 - j. The benefits of permitting the demolition, removal or relocation of the subject buildings outweigh the impacts of the demolition, removal or relocation.

The Director of Planning, Building, and Code Enforcement concludes and finds, based on analysis of the above facts with respect to the Planned Development Permit findings (Section 20.100.940), that:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan, in that:
 - a. The project is consistent with the site's General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public in that private school uses are allowed in this designation.
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, in that the General Development Plan allows the proposed school use and the proposed buildings conform to the setback, separation, and height requirements.
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 proposed multi-purpose building and pool building are architecturally compatible with the existing buildings that surround or are adjacent to them in terms of consistency of design elements and use of materials.
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 purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties, in that:
 - a. A Mitigated Negative Declaration has been adopted for this project that indicates that certain mitigation measures will be incorporated into the project to prevent the occurrence of any significant adverse effect on the environment.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning, Building, and Code Enforcement approves, pursuant to Chapter 13.32 (Tree Removal Controls), Part 5 of Chapter 20.80 (Demolition Permit), and to Part 9 of Chapter 20.100 (Planned Development Permits) of the San José Municipal Code, concludes and finds that the proposed project conforms in all respects to the provisions of Title 13 and Title 20 of the San José Municipal 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. **Permit Expiration.** This Planned Development Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, the proposed use of this site or construction has not commenced, pursuant to and in accordance with the provision 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/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **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.
4. **Conformance to Plans.** Development of the site shall conform to approved Planned Development plans entitled, "Planned Development Permit for The Harker School, Located at 4525 Union Avenue, San José," dated June 25, 2012, last revised August 31, 2012, 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.
5. **Permit Adjustment Required.** Within 180-days of approval of this Permit the applicant shall secure and agree to implement a Permit Adjustment to address the items listed below to the satisfaction of the Director of Planning, otherwise a Planned Development Permit Amendment shall be required.
 - a. Provide detailed plans for modification of existing trash area/enclosure. The enclosure must include sufficient space for storage and collection of trash and recyclables and shall be covered to minimize stormwater intrusion. Any drainage within the enclosure area shall be connected to the sanitary system.
 - b. For any existing buildings that are proposed to be converted to other uses, provide detailed elevations for any exterior modifications.
 - c. Provide details for proposed fences and gates (e.g., around proposed pool).
 - d. Provide details for relocation of existing transformer and generator.
 - e. Provide details to show conformance with Zoning Code bicycle parking facility requirements, Section 20.90.060. Bicycle parking for full-time employees shall be provided in long-term bicycle parking facilities and bicycle parking for classrooms shall be provided in short-term bicycle parking facilities.
6. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
7. **Number of Students and Staff.** This school shall be limited to a maximum of 600 K-5th grade students and 100 teachers/staff.
8. **Weekday Hours.** With the exception of those activities permitted in Conditions 11 and 12 below, the daily arrival and pick-up of students shall occur no earlier than 7:00 a.m. and no later than 6:00 p.m., respectively. All other weekday activity shall begin no earlier than 6:00 a.m. and end no later than 10:00 p.m.
9. **Staggered Start Times.** Upper elementary grades will begin at 8:00 a.m. and the lower elementary grades will begin at 8:40 a.m.

10. **Vehicular Access During Peak Hours.** The northern driveway shall be two inbound only lanes onto the site and the southern driveway shall be two outbound only lanes during the school's peak AM and PM hours.
11. **Weekend Activities.** Weekend activities utilizing the pool facilities, athletic fields and basketball courts may occur between 9:00 a.m. and 7:00 p.m.
12. **Special Events.** The school may have up to six special events per year, including but not limited to graduation, parent workshops, and performing arts events. Special events on weekends or weekdays shall begin no earlier than 9:00 a.m. and end no later than 10:00 p.m. Vehicle parking for special events should be accommodated on-site in the main parking lot and on the athletic field/special event parking area. As part of the school's ongoing coordination efforts, a schedule of special events shall be provided to the neighborhood.
13. **Neighborhood Coordination.** A neighborhood liaison shall be designated for the school and contact information (name, phone number, email) shared with the neighborhood and displayed on a weather proof sign on the project site at the northerly driveway. The neighborhood liaison shall be responsible for ensuring compliance with this permit. The school shall implement on-going and continual outreach and communication to address neighborhood concerns. The school shall maintain a mailing list and email list of neighborhood residents that would like to be kept informed of school activities, including special events.
14. **Traffic Coordinator.** The school shall designate and provide a traffic coordinator whose responsibilities shall include overseeing traffic operations and providing outreach to the public, employees, and parents.
15. **Annual Neighborhood Meeting.** In addition to on-going and continual neighborhood outreach, the school shall conduct an annual Neighborhood Meeting to engage the surrounding neighborhood in discussions related to the operation of the school site and any concerns the area residents may have. Notification of the neighborhood residents of this meeting shall occur at least 2 weeks prior to the scheduled meeting and be done in writing and distributed in a manner sufficient to accomplish notification.
16. **Conformance to Mitigation Monitoring & Reporting Program.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development. The following mitigation or avoidance measures are organized by impact category and identify (responsibility for monitoring compliance).
 - a. Biological Resources (City of San José Planning Division, Environmental Review Section Senior Planner). If construction of the project occurs during the typical avian nesting season (February 1 – September 30), the project proponent shall retain a qualified biologist to conduct focused preconstruction surveys for nesting birds no more than 14 days prior to initiation of construction activities in areas that may provide suitable nesting habitat within 300 feet of construction activities. If active nests are found, a suitable construction buffer shall be established by the qualified biologist (typically 300 feet) and no work shall occur within that buffer until September 30. Alternatively, a qualified biologist can conduct weekly nest checks to gauge nestling/fledgling status, and construction may proceed once fledglings have dispersed from the nest provided written concurrence is obtained from DFG. No active nest shall be impacted or removed. For activities that occur outside of the nesting season (generally October 1 through February 1), preconstruction surveys are not required.

- b. Geology and Soils (City of San José Planning, Director). Prior to the issuance of a grading permit, a design-level geotechnical analysis shall be prepared by a qualified geologist and submitted to the Director of Planning for review and approval for all new structures. The project shall be designed and constructed in accordance with the specific recommendations of the design-level geotechnical investigation.
- c. Hazards and Hazardous Materials (City of San José Planning Division, Environmental Review Section Senior Planner). Prior to initiation of earthwork activities, the project proponent shall perform soil testing on the project site and analytically test for pesticide residuals and pesticide-related metals arsenic, lead, and mercury. Sampling activities shall be coordinated with the San Jose Environmental Services Department. If contamination is identified in the soil samples above applicable levels, the project proponent shall prepare a Site Management Plan (SMP) to establish protocols/guidelines for the contractor including: identification of appropriate health and safety measures while working in contaminated areas; soil reuse; handling, and disposal of any contaminated soils; and agency notification requirements. The SMP shall be subject to the review and approval of the appropriate regulatory agency.
- d. Transportation (City of San José Planning Div., Environmental Review Section Sr Planner).
 - i. The project proponent shall implement a comprehensive shuttle bus program as part of its Transportation Demand Management (TDM) program to limit AM peak hour vehicle trips to 350 trips or fewer. The project proponent shall establish a carpool match program to facilitate students living near each other to carpool. The project proponent shall provide buses as necessary to serve the Evergreen/Silver Creek areas in San Jose, Fremont, Palo Alto, Los Altos, Mountain View, Cupertino, Saratoga and Sunnyvale. The TDM Program shall be monitored by conducting driveway traffic counts on an annual basis to ensure TDM program effectiveness. The driveway counts shall be collected by an independent vendor for the AM peak period between 7 AM - 9 AM with inbound and outbound volumes reported in 15-minute intervals. Driveway counts shall be collected for three consecutive days (Tuesday - Thursday) monthly after the start of the school's fall session. The data shall be collected on days when there are no special events or school holidays (that could bias the traffic volumes).
 - ii. An Annual Monitoring Report shall be submitted to the City of San Jose Department of Planning, Building and Code Enforcement, Environmental Review Section, to document the effectiveness of the TDM Program to meet the trip goal cited above. This memorandum shall include the following: 1) descriptions of the TDM Program elements currently in place, and 2) trip generation for the school based on the driveway counts. The project proponent would be considered non-compliant if the trip generation goal is not achieved. If found to be out of compliance, the project proponent must implement option 1 below, and in addition may also implement option 2 or 3:
 - 1) Increase the TDM activities (such as modifying existing shuttle routes to serve areas with higher concentrations of students, adding new shuttle routes or stops making the use of the shuttle bus mandatory for the required number of students, and increasing the proportion of three and four-person carpools) and attain compliance within four months, which would be demonstrated by new monitoring efforts.
 - 2) Reduce enrollment in the next academic year (enrollment may be increased back to previously approved level with the issuance of a Planned Development Permit Amendment); or

- 3) Mitigate all traffic impacts in conformance with the City's Transportation Policies.
 - iii. This TDM program, associated annual monitoring program, and any modifications to the program shall be subject to review by the City of San Jose Department of Public Works and Department of Transportation.
17. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the issuance of Building permit(s) 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. **Transportation:** A Traffic Impact Analysis has been performed for this project based on 738 AM and 420 PM peak hour trips. See separate Traffic Memo dated 9/20/2012 for additional information.
 - 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 more than one acre, 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. A soils report must be submitted to an accepted by the City prior to the issuance of a grading permit.
 - 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. Based on the project's total new and replaced impervious surface areas, the project will result in an alteration of more than 50% of the impervious surface area of the existing site. Therefore, the entire project site is subject to the stormwater treatment requirements.
 - i. 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.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - d. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Area (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.

- 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 frontage adjacent to Union Avenue prior to the 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 2012 base fee is \$412 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's 20 City Average Cost Index. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued. (Based on 2012 rate, the fee is \$160,268).
 - g. **Street Improvements:** Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - h. **Referrals:** This project should be referred to the California Department of Transportation (CalTrans) and the Valley Transportation Authority.
18. **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, PD12-027, 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. *Construction Conformance.* A project construction conformance review by the Planning Division is required.
 - d. *Permit Adjustment.* Per Condition #5 above a Permit Adjustment is required.
19. **Demolition Permit.** Obtainment of a Demolition Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions. No demolition of the structure may be implemented unless and until the Building Division issues a Demolition Permit pursuant to Section 301 of the Uniform Building Code, as adopted pursuant to the provisions of Chapter 17.04 of Title 17 of the San José Municipal Code.
20. **Hours of Construction.** Construction activity within 500-feet of a residential unit shall not be allowed before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or any time on weekends. Construction outside of these hours may be approved through a separate 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.
21. **Construction Noise.** The following standard controls shall be implemented during construction:
- a. Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - b. Locate stationary noise generating equipment (e.g., compressors) as far as possible from adjacent residential receivers.
 - c. Acoustically shield stationary equipment located near residential receivers with

temporary noise barriers.

- d. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- e. The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- f. Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.

22. **Construction Air Quality.** The project shall implement the following standard measures recommended by the Bay Area Air Quality Management District (BAAQMD) to reduce the air quality impacts associated with proposed demolition, renovation, and new construction:

- a. Any exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations

23. **Tree Replacement.** As indicated on the Tree Removal and Mitigation Plan the 128 trees that are to be removed as part of this project are to be replaced with 164 trees. 68 trees are proposed to be replaced on-site. A donation of \$28,800 (\$300 per additional replacement tree) shall be made to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. Contact Our City Forest at (408) 998-7337 x106 to make the donation. A donation receipt for off-site tree planting shall be provided to the Department of Planning, Building and Code Enforcement, Environmental Team within 30-days of removal

of the first tree.

24. **Tree Protection.** The following tree protection measures shall be implemented in order to protect trees to be retained during construction:

a. *Pre-Construction Treatments*

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

b. *During Construction Treatments*

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

25. **Cultural Resources.** The development shall conform to the following standards:

- a. Should evidence of prehistoric cultural resources be discovered during construction, work within 50 feet of the find shall be stopped to allow adequate time for evaluation and mitigation by a qualified professional archaeologist. 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.
- b. As required by County ordinance, this project will incorporate the following guidelines. 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 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.

26. **Lighting.** Lighting shall conform to the Zoning Code and City Council Policy 4-3 Outdoor Lighting on Private Developments. No outdoor lighting of the playfields or pool is allowed with this permit.
27. **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.
28. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
29. **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.
30. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
31. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at (408)535-8566 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
32. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
33. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
34. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
35. **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.
36. **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.

37. **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.
38. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
39. **Fire Flow.** Required fire flow for the site shall be provided to the satisfaction of the Fire Chief.
40. **Fire Hydrants.** The following shall be provided to the satisfaction of the Fire Chief.
 - a. The average distance between hydrants shall not exceed 300 feet. The maximum distance from any point on street frontage to a hydrant shall be 180 feet. Any exterior portion of all buildings shall be within 400 feet of a hydrant.
41. **Visible Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by use of reflective materials.
42. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this 5th day of October 2012.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy