

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD12-035
LOCATION OF PROPERTY	Southwest corner of Raleigh Road and Charlotte Drive
ZONING DISTRICT	IP(PD) Planned Development (PDC04-031)
GENERAL PLAN DESIGNATION	Urban Village
PROPOSED USE	Planned Development Permit to allow up to 639 multi-family dwelling units on a 10.81 acre site
ENVIRONMENTAL STATUS	Use of Hitachi Campus and Mixed-use Transit Village Project EIR, Resolution No. 72772
OWNER/APPLICANT	ICS Transit Village Property Owner, LLC 130 Vantis Aliso Viejo, CA 92656

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 Urban Village on the Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The currently vacant approximately 10.81 acre subject site (Lot 8 of Tract 9952) is within the approximately 332 acre Hitachi Campus and Mixed-use Transit Village (Hitachi Village), located in the IP(PD) Planned Development Zoning District.
3. The Hitachi Village Planned Development Rezoning (Ordinance No. 27491) was adopted on August 9, 2005 and allows up to 2,930 residential units; 460,000 square feet of commercial/retail; and 3,600,000 square feet of industrial.
4. On June 2, 2006 a Master Planned Development Permit (File No. PD05-087) and associated Planned Tentative Map (File No. PT05-108) were approved to allow the demolition of existing buildings, reconfiguration of existing lots, and construction of a new public street network to allow future construction of residential, commercial, and industrial uses.
5. This Planned Development Permit will allow construction of up to 639 residential units on a portion of the Hitachi Village identified on the Zoning General Development Plan as Sub-area O-4.

6. The subject site is on the southwestern edge of the Hitachi Village and is bordered on the north by Raleigh Road, on the east by Charlotte Drive, on the west by Cottle Road, and on the south by a future Highway 85 interchange. Across Charlotte Drive to the east is the recently approved Planned Development Permit (File No. PD12-002) for a multi-family residential development. Across Raleigh Road to the north are two recently approved Planned Development Permits (File Nos. PD12-015 and PD12-028) for a commercial shopping center and residential mixed-use project, respectively.
7. The environmental impacts of the Hitachi Village project were addressed by a Final EIR entitled, "Hitachi Campus and Mixed-Use Transit Village Project," and findings were adopted by City Council Resolution No. 72772 on June 21, 2005. Pursuant to Section 21081.6 of the California Environmental Quality Act (CEQA) a Mitigation Monitoring and Reporting Program (MMRP) was adopted that includes measures to mitigate or avoid significant effects on the environment.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the 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 Urban Village, which supports a wide variety of commercial, residential, institutional, and other uses. The subject site is a residential/mixed-use component of the larger Hitachi Campus and Mixed-use Transit Village, which allows up to 2,930 residential units, 460,000 square feet of commercial/retail; and 3,600,000 square feet of industrial.
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 project conforms to the Residential Design Guidelines.
 - b. The site layout and architectural elements of the proposed buildings are integrated into a harmonious whole.
 - c. The proposed project is compatible in terms of architecture and scale with the anticipated development proximate to the site.

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. Under the provisions of Section 15162 of the State Guidelines for implementation of the California Environmental Quality Act (CEQA), the City of San José has determined that the project is pursuant to or in furtherance of the Hitachi Campus and Mixed-use Transit Village Project Final Environmental Impact Report (EIR) and does not involve new significant effects beyond those analyzed in this Final EIR.

Finally, 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.

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 use 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.** Except as noted under the “Permit Adjustment Required” condition no. 31 below, development of the site shall conform to the approved Planned Development plans entitled, “Village Park, San José, California, Multi-Family Apartment Community” last dated November 1, 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. **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.
6. **Conformance with Previously Approved Zoning.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning remain in effect.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San Jose Municipal Code.
9. **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 permit includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. *Transportation:* A traffic impact analysis has been completed for the Hitachi campus which includes this proposed project. The analysis identified several public improvements required for this project to address the traffic increases due to the overall development of the Hitachi campus. Hitachi is in the process of completing these improvements which will bring this proposed project into conformance with CSJ Transportation Level of Service Policy 5-3.
 - c. *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.
- v. All on-site storm drainage conveyance facilities and earth retaining structures shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval.
- d. *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.
 - 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.
- 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. *Parks:* This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
- g. *Assessments:* This project is located within the boundaries of Community Facilities District No. 14 which maintains public parks, storm detention basins, street island and parkstrip landscaping in the Santa Teresa Transit Village area. Properties within the district pay for the maintenance through annual special taxes which are adjusted annually by the Consumer Price Index. The 2012-13 special tax rate for APN 706-07-013, referenced as Improvement Area No. 6, is \$65,514.32. If the future residential site includes for sale units, the reallocation of the special tax to those new units would also be required through a formal property owner election process. Please note that this process must be accomplished prior to the approval of the parcel map. Additionally, maintenance of any enhanced improvements along the extension of Charlotte are not included in the

existing special tax and would have to be allocated by a similar modification of the existing special tax or through the formation of a new district.

This project is also located within the boundaries of Maintenance District 9 which maintains the enhanced street island landscaping on Santa Teresa Blvd, Great Oaks Blvd, San Ignacio Ave and Cottle Rd. The benefiting properties within the district pay for the maintenance through annual assessments placed on the County property tax bills which are adjusted annually by the Consumer Price Index. The 2012-13 assessment for APN 706-07-013 is \$1,618.76. The assessments are calculated by acreage and proximity to the maintained areas. Assessment for APN 706-07-013 is calculated at approximately \$120 per acre. The current assessment is based on non-residential use and the assessment amount may change due to the future residential development. Future year assessments will be apportioned based on the new use and will continue to be collected through the County property tax bills.

h. *Street Improvements:*

- i. Applicant shall be responsible for removing and replacing curb, gutter, and sidewalk damaged during construction of the proposed project.
- ii. Proposed driveway width to be 26'.

i. *Electrical:*

- i. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- ii. Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 5' in residential areas.

- j. *Street Trees:* Replace any missing street trees in empty tree wells or park strips along Raleigh Road and Charlotte Drive and match existing trees per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Obtain a DOT street tree planting permit for any proposed street tree plantings. Show all existing trees by species and diameter that are to be retained or removed. Obtain a tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

- k. *Referrals:* This project should be referred to the California Department of Transportation (CalTrans) and the Great Oaks Water Company.

10. **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, PD12-035, shall be printed on all construction plans submitted to the Building Division.
- b. *Permit Adjustment.* A Permit Adjustment shall be approved per the Permit Adjustment Required condition below.
- c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- d. *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.

11. **Green Building.** The project shall comply with the provisions of Ordinance No. 28622 in the San Jose Municipal Code or subsequent ordinance for private-sector green building that is in effect at the time that a building permit application is submitted to the Department of Planning, Building and Code Enforcement Building Division. New residential projects with 10 or more units must receive the minimum green building certification of GreenPoint Rated 50 points or LEED Certified. A Green Building Deposit is required prior to issuance of building permit. The Green Building Deposit is refundable in accordance with the provisions of Ordinance No. 28622.
12. **Conformance to Hitachi Campus and Mixed-Use Transit Village MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development. The following mitigation or avoidance measures are organized by impact category and (implementation oversight responsibility).
 - a. Land Use - Construction Management Plan (Director of Planning). **Prior to issuance of a grading permit**, the applicant shall implement a Construction Management Plan, for all projects within 1,000 feet of occupied residential uses, approved by the Director of Planning, Building and Code Enforcement to minimize impacts on surrounding sensitive land uses, particularly the residences across Cottle Road and Monterey Highway, as well as the future residences on the project site itself, to the fullest extent possible. The Construction Management Plan would include the following measures to minimize the impacts of construction upon adjacent land uses:
 - i. Measures to control dust, noise and water pollution from construction activities.
 - ii. Measures to keep all streets and public ways clean of debris, dirt, dust and other undesirable outcomes of construction.
 - iii. Measures to control noise by limiting hours of operation of construction activities, avoiding more sensitive early morning and evening hours, and scheduling equipment selection.
 - iv. Selection of access routes for trucks delivering materials to and from the site that minimize neighborhood disturbance.
 - b. Hydrology and Water Quality – Stormwater Pollution Prevention Plan (Director of Public Works). **Prior to the issuance of a grading permit** the applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) and submit a Notice of Intent (NOI) to the State of California Water Resources Quality Control Board to control the discharge of stormwater pollutants including sediments associated with construction activities. The applicant shall prepare an Erosion Control Plan if deemed necessary by the Director of Public Works and if adequate erosion control measures have not already been included in the SWPPP. The Erosion Control Plan may include BMPs as specified in the California Stormwater Best Management Practice Handbook for reducing impacts on the City's storm drainage system from construction activities. The SWPPP shall include control measures during the construction period for:
 - i. Soil stabilization practices
 - ii. Sediment control practices
 - iii. Sediment tracking control practices

- iv. Wind erosion control practices and
 - v. Non-stormwater management and waste management and disposal practices.
- c. Biological Resources – *Preconstruction Survey for Burrowing Owls* (Director of Planning). In conformance with federal and state regulations protecting raptors against direct “take,” preconstruction surveys for burrowing owls shall be conducted by a qualified ornithologist prior to any soil-altering activity or development occurring within the project area. The preconstruction surveys shall be conducted per CDFG guidelines (currently **no more than 30 days prior to the start of site grading**), regardless of time of year in which grading occurs. If no burrowing owls are found, then no further mitigation would be warranted. If breeding owls are located on or immediately adjacent to the site, a construction-free buffer zone around the active burrow must be established as determined by the ornithologist in consultation with CDFG. No activities that may disturb breeding owls, including grading or other construction work or evictions of owls, shall proceed. If preconstruction surveys determine that burrowing owls occupy the site, and avoiding development of occupied areas is not feasible, then the owls may be evicted outside of the breeding season, with the authorization of the California Department of Fish and Game (CDFG). The CDFG typically only allows eviction of Owls outside of the breeding season (only during the non-breeding season [September 1 – January 31]) by a qualified ornithologist, and generally requires habitat compensation on off-site mitigation lands. A final report of burrowing owls, including any protection measures, shall be submitted to the Director of Planning prior to start of grading.
- d. Cultural Resources – *Print on all Construction Documents, Contracts and Project Plans all Measures Related to Encountering any Archaeological or Cultural Materials* (Director of Planning). In the event any significant archaeological cultural materials are encountered, all construction within a radius of 50 feet of the find shall be halted, the Director of Planning shall be notified, and a qualified archaeologist shall examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. The recommendations shall be implemented and could include collection, recordation, and analysis of any significant cultural materials. In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius of the find in order to proceed with the testing and mitigation measures required. Pursuant to Section 70.50.5 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. A final report shall be submitted to the Director of Planning. This report shall contain a description of the mitigation program that was implemented 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 conclusion, and a description of the disposition/curation of the

resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.

- e. Air Quality – *Print on all Construction Documents, Contracts, and Project Plans all Measures to Control Dust and Exhaust Emissions* (Director of Planning). The following provisions to control dust and exhaust emissions shall be followed **during all site excavation, grading and construction activities**:
- i. All construction vehicles shall be properly maintained and equipped with exhaust mufflers that meet State standards.
 - ii. Newly disturbed soil surfaces shall be watered down regularly by a water truck(s) or by other approved method maintained on site during all grading operations.
 - iii. Construction grading activity shall be discontinued in wind conditions that in the opinion of the Public Works Construction Inspector cause excessive neighborhood dust problems.
 - iv. Wash down of dirt and debris into storm drain systems shall not be allowed.
 - v. Construction activities shall be scheduled so that paving and foundation placement begin immediately upon completion of grading operation.
 - vi. All aggregate materials transported to and from the site shall be covered in accordance with Section 23114 of the California Vehicle Code during transit to and from the site.
 - vii. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level of less than significant. The following construction practices required by the City of San José meet or exceed the BAAQMD feasible construction dust control measures and will be implemented during all phases of construction on the project site:
 - 1) Use dust-proof chutes for loading construction debris onto trucks.
 - 2) Water to control dust generation during demolition of structures and break-up of pavement.
 - 3) Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
 - 4) Cover all trucks hauling demolition debris, soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - 5) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - 6) Sweep streets daily (preferably with water sweepers) all paved access road, parking areas and staging areas at construction site.
 - 7) Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
 - 8) Limit traffic speed on unpaved roads to 15 mph.
 - 9) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - 10) Replant vegetation in disturbed areas as quickly as possible.

- f. **Energy** – Implementation of the types of measures listed below, from which the Planning Director may select (implementation of all the measures is not required) would reduce adverse energy impacts of the project to less than significant levels.
- i. *Measures to Reduce Energy Consumption by Design* (Director of Planning). Install reflective, *EnergyStar*[™] cool roofs. Cool roofs decrease roofing maintenance and replacement costs, improve building comfort, reduce impact on surrounding air temperatures, reduce peak electricity demand, and reduce waste stream of roofing debris.
 - ii. *Measures to Reduce Energy Consumption During Construction and Operation* (Director of Planning). As noted in Condition #11 above the project shall comply with the provisions of Ordinance No. 28622 in the San Jose Municipal Code or subsequent ordinance for private-sector green building that is in effect at the time that a building permit application is submitted to the Department of Planning, Building and Code Enforcement Building Division. New residential projects with 10 or more units must receive the minimum green building certification of GreenPoint Rated 50 points or LEED Certified. A Green Building Deposit is required prior to issuance of building permit. The Green Building Deposit is refundable in accordance with the provisions of Ordinance No. 28622.
13. **Sound Wall.** The project shall incorporate a sound barrier along the southerly property line of sufficient height to achieve
14. **Recycling.** Scrap construction material should be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction debris from the project, including information on available haulers and processors.
15. **Landscaping.** Planting and irrigation are to be provided and maintained 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.
16. **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.
17. **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.
18. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
19. **Fire Flow.** Required fire flow for the site shall be provided to the satisfaction of the Fire Chief.
20. **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.

21. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
22. **Screen Walls.** Screen wall height and materials shall be as shown on the Approved Plan Set.
23. **Motorcycle Parking.** This project shall conform to the motorcycle parking requirements identified on the Zoning Ordinance. The required spaces shall be provided through a combination of dedicated spaces as shown on the plans and the use of surplus vehicular parking spaces (to be used as vehicle or motorcycle parking spaces).
24. **Bicycle Parking.** This project shall conform to the bicycle parking requirements identified in the Zoning Ordinance. Bicycle parking facilities shall be located in a convenient, highly visible and well lighted area and within view of pedestrian traffic.
25. **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.
26. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
27. **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.
28. **Sign Approval.** Schematic design of project related signs shown on plans are for conceptual reference only. No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Sign Permit. Signage quantity, area, height, and location shown on the plans are consistent with the City of San José Sign Ordinance. Project related signage can be processed together with any items listed in the Permit Adjustment Required condition below.
29. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
30. **Pedestrian Access.** Pedestrian access through the site to the Cottle light rail station shall be preserved for residents of the transit village.
31. **Permit Adjustment Required.** Within 60 days, the applicant shall secure and agree to implement a Permit Adjustment application to the satisfaction of the Director of Planning which addresses the following:
 - a. *Lighting Plan.* A lighting plan with fixture details for all on-site, exterior, unroofed lighting shall be submitted demonstrating conformance to the City's Outdoor Lighting Policy and, if applicable, Interim Standards for Broad-Spectrum (White) Light for Private Development (for use of LED lighting). Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
 - b. *Sound wall, Landscape Wall, Access Gates.* Provide design details (finish and materials) of perimeter walls and pedestrian/EVA access gates. The sound wall/noise barrier along the southern property line immediately adjacent to the future Highway 85 off-ramp shall be approximately 12 feet high at its northwestern end and step up to 14 feet high at its southeastern end. The wall height generally refers to the elevation of the wall relative to

the common area or in the instance where the elevation of the adjacent off-ramp is higher than the nearest common area then the required height is relative to the off-ramp. The noise barrier details shall specify acoustically effective materials with a surface density of at least 2 pounds per square foot and shall have no openings or gaps.

32. 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 19th day of December 2012.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy