

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD 12-050
LOCATION OF PROPERTY	East side of South 3rd Street, approximately 500 feet north of Keyes Street (1010 S. 3rd Street).
ZONING DISTRICT	A (PD) Planned Development
GENERAL PLAN DESIGNATION	Transit Residential (50-250 DU/AC)
PROPOSED USE	37 single-family attached residential units
ENVIRONMENTAL STATUS	Mitigated Negative Declaration File No. PDC 07-002
OWNER	Long Nguyen 5240 Arezzo Drive San José, CA 95138

FACTS

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

1. The subject site is located at 1010 S. Third Street on the east side of South 3rd Street, approximately 500 feet north of Keyes Street.
2. The subject site has a designation of Transit Residential (50-250 DU/AC) on the adopted Envision San Jose 2040 General Plan.
3. This Planned Development Permit allows construction of 37 single-family attached residential units.
4. In accordance with Section 20.100.900 of the San José Municipal Code, a Planned Development Permit is required.
5. Surrounding land uses consist of heavy truck parking to the north and east; single-family attached residential to the south, and single-family detached residential to the west.
6. The subject site is currently developed with a warehouse.
7. The subject site is zoned A (PD) Planned Development Zoning District.
8. Section 20.80.460 of the Zoning Ordinance requires that, prior to the issuance of any development permit which allows for the demolition, removal or relocation of a building, the Director shall determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation. In making such a determination, the following shall be considered:
 - a. The failure to approve the permit would result in the creation or 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 should facilitate a project which is compatible with the surrounding neighborhood;
- d. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
- e. Rehabilitation or reuse of the existing building would not be feasible;
- f. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based upon an analysis of the above facts that the following are the relevant findings regarding this proposed project:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The project, with a density of 51.89 DU/AC, is consistent with the General Plan Land Use designation of Transit Residential (50-250 DU/AC).\
 - b. The project furthers the General Plan Growth Management Major Strategy because it locates high-density residential uses on an infill site where urban services and facilities are available.
 - c. The proposed Planned Development Rezoning implements the Martha Gardens Specific Plan.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property in that the building location, setbacks, density, and number of units, and number of parking spaces as shown on the final plan set conform to the development standards on the approved General Development Plan.
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of the proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious in that:
 - a. The architectural elements of the proposed structure are integrated into a unified design.
 - b. The project conforms to the City's Residential Design Guidelines.
4. The environmental impacts of the project including, but not limited to noise, vibration, dust, drainage, erosion, and 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 the environmental impacts of this project were addressed in an Initial Study and Mitigated Negative Declaration for a Planned Development Rezoning, File No. PDC07-002 that was adopted on September 24, 2007.
5. The benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation in that the project would replace an industrial building which is not listed on the Historic Resources Inventory with 37 single-family attached residential units that are designed to be compatible with the adjacent residential uses.

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. **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 José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
3. **Permit Term.** This Planned Development Permit shall automatically expire four years from and after the date of approval by the Director of Planning, or by the Planning Commission on appeal, granting this Permit, if within such four-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit. 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.
4. **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.
5. **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.
6. **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.
7. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.

8. **Housing Affordability Requirement.** The applicant shall comply with City's Inclusionary Housing Policy in connection with any and all portions of the Project involving the construction or rehabilitation of residential units that will be located in a redevelopment project area. The applicant shall record or cause the recordation against the real property upon which the residential units will be located the affordability restrictions approved by the Redevelopment Agency of the City of San José, which recordation shall occur with the Recorder's Office of the County of Santa Clara prior to the issuance of a Foundation or Building Permit for the Project.
9. **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.
10. **Tract Sales Office/Model Homes.** This permit does not include the approval of a tract sales office/model homes complex. Such use requires a Permit Adjustment approved by the Director of Planning.
11. **Conformance to Plans.** Development shall conform to approve Planned Development Permit plans entitled, "3rd Street Residential Development," last revised on ** **, 2013, 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).
12. **Common Area Landscaping.** All landscaping in front yard and common areas within the project site shall be maintained by the Homeowner's Association or other similar entity. Planting and irrigation are to be provided, as indicated on the final Approved Plan Set. Landscaped areas shall be maintained and watered. 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 Standards.
13. **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.
14. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with the San José Municipal Code.
15. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, PD 12-050, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans With Disabilities Act.* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
 - c. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.

- d. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
 - e. *Building Permits.* Public Works Clearance is required prior to the issuance of a building permit.
16. **Construction Hours.** Construction activities shall conform to Title 20, as amended. No applicant or agent of an applicant shall suffer or allow any construction activity on a site located within 500 feet of any residential units before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
 17. **Community Meeting.** Prior to construction, applicant shall conduct a noticed community meeting for residents and property owners located within 1,000 feet of the project site. The meeting can be conducted in conjunction with a regularly scheduled Spartan/Keyes NAC meeting. The purpose of this meeting is to distribute a construction schedule which includes, but is not limited to, a truck hauling route, approximate dates and lengths of major disturbances, dust control measures, and to address any outstanding community concerns. A copy of this meeting notice should be submitted to the Planning Project Manager to demonstrate conformance with the condition.
 18. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
 19. **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.
 20. **Storm Water Discharge.** The applicant shall conform to the Non-Point Source Control requirement for storm water discharge associated with construction activity as required by the State Water Resource Control Board. Contact the Regional Water Quality Control Board at (415) 286-0968 for further information.
 21. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property, to the satisfaction of the Director of Planning.
 22. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition

of the remains pursuant to this State law, then the 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.

23. **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. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
24. **Roof Equipment.** All roof equipment shall not be visible from public streets or neighboring properties. Any proposed rooftop equipment must be approved through a Permit Adjustment approved in the Planning Divisions of the Department of Planning, Building, and Code Enforcement.
25. **Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by the use of reflective materials. Street numbers shall be displayed both on the front of each unit and on the rear, garage elevation of each unit.
26. **Walls/Fence Height/Location.** Walls and fencing for the project shall conform to the design standards shown in the approved Planned Development Permit plans. Any proposed changes must be approved through a Permit Adjustment approved in the Planning Division of the Department of Planning, Building, and Code Enforcement.
27. **Utilities.** All new on-site telephone, electrical and other overhead service facilities shall be placed underground.
28. **Sign Approval.** No signage is approved at this time. Any proposed signage must be approved through a Permit Adjustment approved in the Planning Divisions of the Department of Planning, Building, and Code Enforcement.
29. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
30. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
31. **Fire Department Requirements.** The project must conform to the requirements of the Fire Department at the plan review stage to the satisfaction of the Chief Building Official and the Fire Chief.
32. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning unless otherwise approved with this project.
33. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
34. **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.

35. **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.
36. **Enclosures/Screening.** Utility Structures shall be enclosed or screened to match existing fencing, screening or landscaping.
37. **Site Clearing.** The applicant shall remove all existing buildings, structures, and signs from the subject property.
38. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
39. **Public Works Clearance for Building Permit(s) or Map Approval: (THIS SECTION IS SUBJECT TO CHANGE, PENDING RECEIPT OF PW MEMORANDUM)** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
 - a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Transportation:** A Traffic Impact Analysis Report has been reviewed for the project. The subject project was found to be in conformance with the City of San José Transportation Level of Service Policy (Council Policy 5-3). Therefore, environmental clearance can be issued based on traffic. Refer to the Traffic Memo dated March 8, 2007.
 - 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 soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
 - v. **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 -or- the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement.
- vi. The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
 - vii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - viii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating the all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
 - ix. **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.
- d. **Parks:** In accordance with the Parkland Dedication and Park Impact Ordinances (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.
- e. *Undergrounding:*
- i. The In Lieu Undergrounding Fee in the amount of **\$12,768** shall be paid to the City for the frontage adjacent to William Street prior to issuance of a Public Works clearance. One Hundred (100%) percent of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage).
 - ii. The Director of Public Works may, at her discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to William Street. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- f. *Street Improvements:*
- i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - ii. Close unused driveway cut(s).
 - iii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - 1) 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. To assist the Applicant in better understanding the potential cost implications resulting from these requirements, existing pavement conditions can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for

processing. The plan should show all project frontages and property lines. Evaluation will require approximately 20 working days.

- g. *Complexity Surcharge (In-Fill)*: This project has been identified as an in-fill project, and as such is subject to the following: Based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.
- h. *SNI*: This project is located within the Spartan Keyes SNI area. Public improvements shall conform to the approved EIR and Neighborhood Improvement Plan.
- i. *Electrical*:
 - i. 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.
 - ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
 - iii. Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 5' in residential areas.
 - iv. To assist the Applicant in better understanding the potential cost implications resulting from these requirements, the electroliers along the project frontage can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 15 working days.
- j. *Street Trees*:
 - i. The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
 - ii. Contact the City Arborist for the designated street tree.
 - iii. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree-planting permit for any proposed street tree plantings.
- k. *Private Streets*:
 - i. Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
 - ii. The plan set includes details of private infrastructure improvements. The details are shown for information only; final design shall require the approval of the Director of Public Works.

40. **Environmental Mitigation.** The Environmental Issues and Mitigation Measures are as follows:

- a. *Air Quality.* The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site:

- i. Water all active construction areas at least twice daily or as often as need to control dust emissions.
 - ii. Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - iii. Pave, apply water three times daily or as needed, or apply (non toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction site.
 - iv. Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
 - v. Sweep public streets daily or as often as needed to keep streets free of visible soil material.
 - vi. Hydroseed or apply (non toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
 - vii. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - viii. Limit traffic speeds on unpaved roads to 15 miles per hour (mph).
 - ix. Install sandbags or other erosion control measures to prevent silt runoff onto public roadways.
- b. *Cultural Resources*
- i. Prior to the issuance of Demolition Permits a qualified archaeologist shall be retained by the Project applicant to train the construction crew on mechanisms used to identify cultural resources. If buried cultural resources (such as chipped or ground stone tools, historic debris, building foundations, or nonhuman bone) are discovered during ground-disturbing activities, the construction contractor shall stop work in that area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City of San José. Treatment measures shall include development of avoidance strategies, capping with fill material, or mitigation of impacts through data recovery programs such as excavation or detailed documentation.
 - ii. 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, the Coroner shall notify the Native American Heritage Commission, which 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 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 surface disturbance.
- c. *Geology and Soils*
- i. The Project applicant shall submit a soil investigation report addressing the potential hazard of liquefaction to the City Geologist, who shall review and approve the report prior to issuance of a grading permit or Public Works Clearance. The investigation shall be consistent with the guidelines published by the State of California (CDMG

- Special Publication 117) and the South California Earthquake Center (“SCEC” report). A recommended depth of 50 feet shall be explored and evaluated in the investigation.
- ii. The Project applicant or construction contractor shall implement Best Management Practices (BMPs) for construction activities in conformance with the City’s regulations and permit requirements. The BMPs shall include appropriate control measures to reduce the potential for erosion. The control measures shall be included in the plans, specifications, and contract documents for the construction of all phases of the proposed Project and shall be developed with the following objectives and basic strategy:
 - 1) Protect disturbed areas by minimizing the duration of exposure (e.g., cover disturbed areas with rolled plastic sheeting or other like material);
 - 2) Control surface runoff (e.g., use sand bags) and maintain low runoff velocities;
 - 3) Trap sediment on-site; and,
 - 4) Minimize length and steepness of slopes.
 - iii. To reduce the risk of differential movement and cracking, the subgrade conditions underneath the proposed foundations and slabs-on-grade shall be modified or improved. Improvements may involve replacing the material under foundations and slabs-on-grade with “non-expansive” material, or modifying expansive soil by compaction control, prewetting, and the installation of moisture barriers. Inclusion of acceptable measures shall be verified by the City Engineer prior to the issuance of building permits.
- d. *Hazards and Hazardous Materials:* The following mitigation measures have been included in the project to reduce hazardous materials impacts to a less than significant level:
- i. Prior to the issuance of Demolition Permits, the existing onsite warehouse shall be sampled as part of a lead hazard evaluation in compliance with the California Health and Safety Code. A Certified Lead-Related Construction Supervisor shall supervise the abatement and disposal if lead is found in the building. Lead shall be removed, transported, and disposed of in compliance with applicable state and federal laws. The existing corrugated sheet metal warehouse likely contains asbestos-containing construction materials (ACCMs). The ACCMs may include vinyl floor coverings, wallboards or plaster skim coatings, asphalt roofing felts, and insulation materials. These materials could pose a health threat if they are not properly handled and disposed of during demolition of buildings. Therefore, mitigation measures would be required.
 - ii. Prior to the issuance of Demolition Permits, the existing on-site warehouse shall be sampled as part of an asbestos survey in compliance with the National Emissions Standards for Hazardous Air Pollutants. If asbestos is found in the building, asbestos related work (including demolition) involving 100 square feet or more of asbestos containing materials (ACM) shall be performed by a Licensed Asbestos Abatement Contractor under the supervision of a Certified Asbestos Consultant. Asbestos shall be removed, transported, and disposed of in compliance with applicable state and federal laws. Since some fluorescent lighting ballasts contain PCB capacitors, there is the potential for PCBs to be located within existing warehouse.

- iii. Prior to the issuance of Demolition Permits, the existing onsite warehouse shall be surveyed for fluorescent light ballasts. The type of ballasts/capacitors shall be identified to determine the appropriate remedial activities (i.e., proper disposal).

e. *Hydrology and Water Quality*

- i. The proposed Project shall implement Best Management Practices (BMPs) for construction activities in conformance with the City's regulations and permit requirements, including but not limited to a grading permit and/or an erosion control plan, etc. The BMPs shall include appropriate control measures to reduce any impacts on water quality in accordance with the City's regulations and permit requirements. Stormwater quality controls shall include appropriate measures from documents such as the Santa Clara Urban Runoff Pollution Prevention Program's recommended BMPs for construction activities (as contained in the "Blueprint for a Clean Bay"), "Start at the Source-Design Guidance Manual for Stormwater Quality Protection," and the "California Storm Water Best Management Practice Handbook for Construction." The Project shall conform to San José's City Council Policy 6-29, the Post Construction Urban Runoff Management Policy, which requires implementation of 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 as specified in City Policy 6-29. At the PD Permit stage, the Project Applicant or construction contractor shall submit the final Stormwater Control Plan and numeric sizing calculations. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance. The Project Applicant or construction contractor shall retain a civil engineer to observe the installation of the BMPs. The civil engineer shall prepare and submit a Final Report to the Director of Public Works that states that all the post construction storm water pollution control BMPs have been installed as indicated in the approved plans and that all significant changes have been reviewed and approved in advance by the Department of Public Works.

f. *Noise*. The following measures are included in the project to reduce significant long-term noise impacts:

- i. Prior to issuance of building permits, the Project applicant shall document that the selected building materials and design of the building will provide the necessary noise reduction to ensure the prevention of exterior source noise above 45 dBA DNL within habitable interior spaces of the condominiums with windows (and doors, where applicable) closed, and the provision of adequate ventilation to make sure such closure is practical. A typical way to achieve exterior source noise at and below 45 dBA DNL within the habitable interior spaces of the condominiums includes modifying elements of building construction (i.e., walls, roof, ceiling, windows, and other penetrations), as necessary to provide sound attenuation. This may include sealing windows, installing thicker or double glazed windows, locating doors on the opposite side of a building from the noise source, or installing solid-core doors equipped with appropriate acoustical gasket.
- ii. The Project applicant shall implement the following measures to reduce exterior noise levels to meet the 60 dBA DNL noise standard:
 - 1) A sound barrier constructed along the site perimeter adjacent to the Grifall Trucking Company would reduce noise levels for patios of first floor residents

facing the trucking company. Based on preliminary project plans, a solid barrier seven feet in height would be required to meet the 60-dBA DNL exterior standard. Acceptable materials for the construction of the barrier shall have a weight of 3.5 pounds per square foot of surface area and may be composed of the following: masonry block, stucco veneer over wood framing (or foam core), glass, Plexiglass Lexan (1/4 inch thick). The barrier may also be constructed out of a combination of the above listed materials.

- iii. As a means of limiting the potential noise impacts associated with construction activities, the following measures shall be incorporated into the proposed Project:
- 1) Limit noise-generating construction activities, including truck traffic coming to and from the site for any purpose, to 7:00 a.m. to 7:00 p.m. Monday through Friday.
 - 2) Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - 3) Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
 - 4) Locate stationary noise-generating equipment as far as practical from sensitive receptors when sensitive receptors adjoin or are near a construction Project area.
 - 5) Prohibit unnecessary idling of internal combustion engines.
 - 6) Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. The telephone number of the disturbance coordinator shall be conspicuously posted at the construction site.

APPROVED and issued this 25th day of January, 2013.

Joseph Horwedel, Director
Planning, Building, and Code Enforcement

Deputy

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