Agenda Item # 8

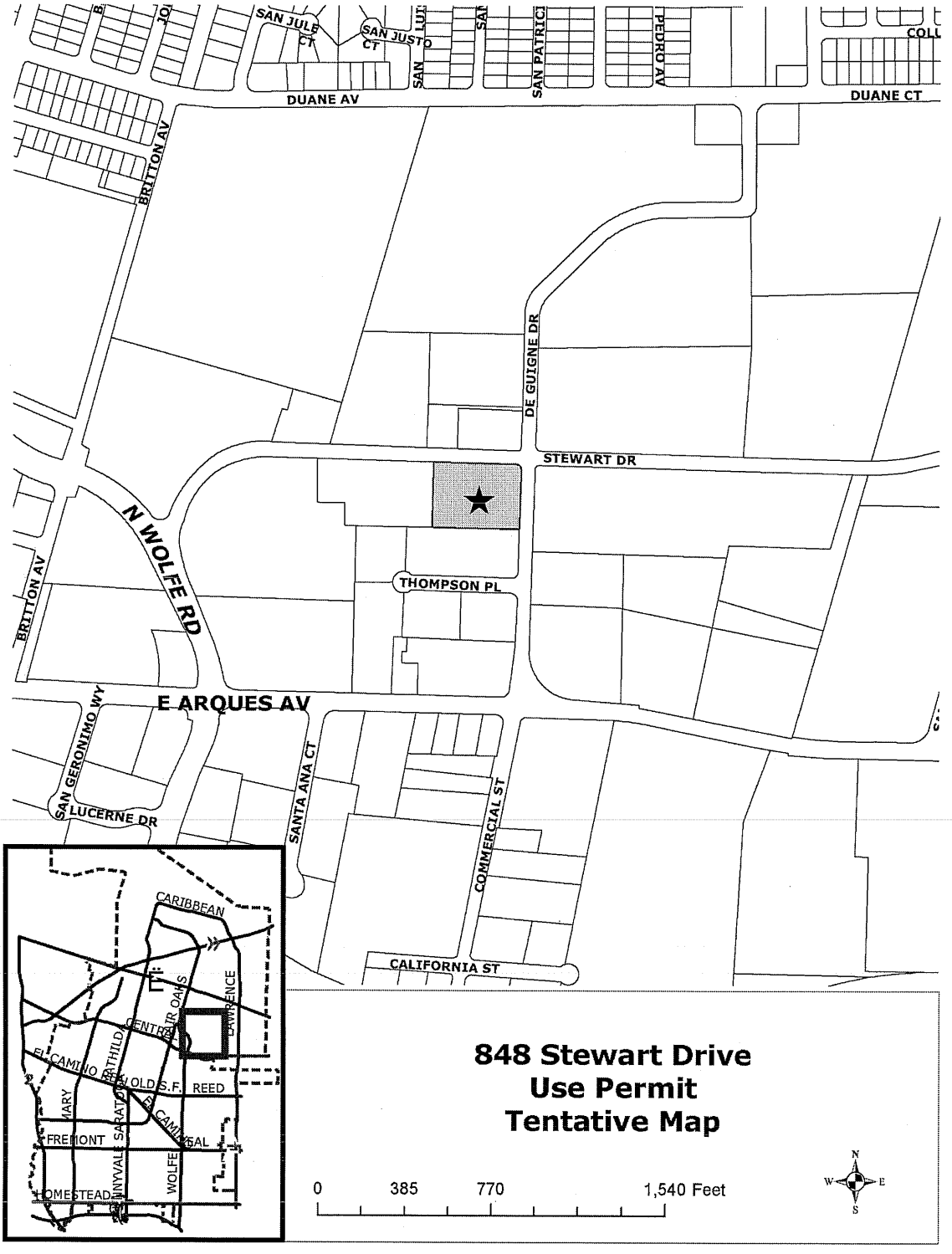
CITY OF SUNNYVALE
REPORT
Planning Commission

July 11, 2005

SUBJECT:	**2005-0497 – Ruby Chung** [Applicant] **Distel Limited Partnership**[Owner]: Application for related proposals on 2.6-acre site located at **848 Stewart Drive 100** (near De Guigne Dr) in an MS (Industrial & Service) Zoning District. (APN: 205-26-003);
Motion	**Use Permit** to allow the subdivision of an existing industrial building into 9 condominium units
Motion	**Tentative Map** to subdivide 1 lot into 9 condominium lots and one common lot

REPORT IN BRIEF

Existing Site Conditions	Existing Industrial Building
Surrounding Land Uses	
North	Industrial
South	Industrial
East	Industrial
West	Industrial
Issues	Appropriate mix of uses in relationship to parking.
Environmental Status	A Negative Declaration has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines.
Staff Recommendation	Approve with Conditions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EL CAMINO REAL
OLD S.F.
REED
FREMONT
HOMESTEAD
WOLFE
LAWRENCE
848 Stewart Drive
Use Permit
Tentative Map
0
385
770
1,540 Feet
N
W
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S

PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial	Industrial	Industrial
Zoning District	M-S Industrial and Service	M-S Industrial and Service	M-S Industrial and Service
Lot Size (s.f.)	111,922	111,922	22,500 min.
Gross Floor Area (s.f.)	46,900	46,900	39,172 max. w/o a Use Permit
Lot Coverage (%)	28	28	45 max.
Floor Area Ratio (FAR)	41.9	41.9	35 max. w/o a Use Permit
No. of Buildings On-Site	1	1 (with 9 condominium units)	N/A
Distance Between Buildings	N/A	N/A	N/A
Building Height (ft.)	28	28	75 max.
No. of Stories	2	2	8 max.
Setbacks (Facing Property)			
Front (Stewart Drive)	72	72	25 min.
Left Side	97	97	0 min./20 total
Right Side	66	66	0 min./20 total
Rear	67	67	0 min.
Landscaping (sq. ft.)			
Total Landscaping	16,165	22,561	22,384 min.
Frontage Width (ft.)	22	22	15 ft. min.
% Based on Floor Area	34	48	10 min.
% Based on Parking Lot	25	39	20 min.
% Based on Lot Area	14	20	20 min.
Parking			

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
Total Spaces	179	192	187 min.
Standard Spaces	173	98	94 min.
Compact Spaces/ % of Total	0	45	50 max.
Accessible Spaces	6	6	6 min.
Aisle Width (ft.)	26	26	26 min.
Stormwater	N/A	N/A	N/A

ANALYSIS

Description of Proposed Project

The applicant proposes to subdivide an existing industrial building into nine condominium units with one common lot for the parking and landscape areas. The project includes upgraded landscaping and sidewalks. The parking area will be re-striped. No architectural modifications are proposed.

Background

Previous Actions on the Site: There are no previous Planning actions for this site that are significant or related to this project.

Environmental Review

A Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial study has determined that the proposed project would not create any significant environmental impacts (see Attachment C, Initial Study).

Use Permit

The Sunnyvale Municipal Code requires approval of a Use Permit in order to consider plans for multiple ownership for industrial sites. This project requires a Use Permit because of the proposed condominium subdivision to allow nine condominium units and one common lot for parking and landscaping.

Site Layout: The site has frontage on both Stewart Drive and DeGuigne Drive. The existing building will remain. Driveways and access aisles would remain the same. The layout of the site would not be modified as a result of this project.

Stormwater Management: The project would not disturb more than 10,000 square feet of impervious area. As a result, stormwater design requirements do not apply to the project.

Easements and Undergrounding: No recording of easements or undergrounding of utilities is required for this project.

Sidewalks: As a condition of approval, the applicant will be required to complete the sidewalk system on Stewart Drive. Sidewalks already exist on DeGuigne Drive. The final sidewalk plan shall indicate the preservation of protected trees and street trees as well as any utilities that need to be adjusted to grade as a result of extending the sidewalk.

Architecture: There will be no architectural changes to the existing building as a result of this project.

Landscaping: Existing landscaping on the project site will not be significantly redesigned but periphery parking lot landscaping will be increased to meet the minimum code requirement of 20% of the lot area. Where possible, additional trees will be incorporated into the landscape plan to increase parking lot shading to meet the 50% requirement. Protected trees in the street frontage areas will require approval of a tree protection plan in order to install required sidewalks. A meandering sidewalk plan will be considered in order to protect trees. The tree protection plan will also address protected trees that exist around the periphery of the building in areas where landscape construction will occur.

Parking/Circulation: The parking and circulation plan for the site will essentially stay the same. New parking will be added along the rear property line and some re-striping will occur to accommodate new landscape pockets and to increase parking to meet code standards. All parking stalls and drive aisles meet minimum code standards.

The applicant has proposed a mix of uses that can be accommodated by the proposed parking plan. These uses are permitted in the M-S Zoning District. Any future use that requires a Use Permit will be required to be reviewed and approved by the newly required owners association prior to review by the City.

The following table provides total square footages allowed for each use.

Use	Sq. Ft.	Parking Ratio	Required Parking Spaces
Medical Office	3,307	1/200	17
General Office and Industrial	34,119	1/225	152
Warehouse	9,474	1/900	11
TOTAL REQUIRED	46,900	N/A	**180**
TOTAL PROVIDED			**189**

Art in Private Development: This project is not required to provide art. Though art can be required through the Use Permit, staff is not recommending art installation as there is no new development associated with the building and it is not along a major expressway or arterial.

Compliance with Development Standards/Guidelines: The site complies with all development standards except parking lot shading. As a condition of approval, the applicant will be required to install parking lot trees where appropriate.

Expected Impact on the Surroundings: There is no impact expected on surrounding uses. Parking can be accommodated on site. Landscaping will be increased. No development or intensity of the site will occur as a result of the proposed project.

Tentative Map

Description of Tentative Map: The applicant proposes to subdivide an existing industrial building into nine condominium units with a common lot for the parking and landscape area. No new development will occur as a result of the subdivision.

Fiscal Impact

Transportation/Park/Housing Fees: No special fees are required for the proposed condominium subdivision.

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
• Published in the *Sun* newspaper • Posted on the site • 28 notices were mailed to the property owners and residents within 300 ft. of the project site	• Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library	• Posted on the City's official notice bulletin board • City of Sunnyvale's Website • Recorded for SunDial

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Permit . Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Adopt the Negative Declaration and approve the Use Permit and Tentative Map with attached conditions.
2. Adopt the Negative Declaration and approve the Use Permit and Tentative Map with modified conditions.
3. Adopt the Negative Declaration and deny the Use Permit and Tentative Map.
4. Do not adopt the Negative Declaration and direct staff as to where additional environmental analysis is required.

Recommendation

Alternative 1

Prepared by:

Gerri Caruso
Project Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

A. Recommended Findings
B. Recommended Conditions of Approval
C. Negative Declaration
D. Site and Architectural Plans
E. Letter from the Applicant

Recommended Findings - Use Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element

Goal: Sustain a strong local economy that contributes fiscal support for desired City services and provides a mix of jobs and commercial opportunities.

Policy: Maintain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project provides for individual ownership of incubator spaces for small businesses meeting the General Plan goals and policies above.

2. The proposed use is desirable, and will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District because the proposed uses are consistent with the M-S Zoning District and the proposed building and landscaping meet Sunnyvale Municipal Code standards.

Recommended Findings - Tentative Map

In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. Staff finds that the Tentative Map is in conformance with the General Plan. However, if any of the following findings can be made, the Tentative Map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map.

1. That the subdivision is not consistent with the General Plan.

2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.

3. That the site is not physically suitable for the proposed type of development.

4. That the site is not physically suitable for the proposed density of development.

5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code

Staff was not able to make any of the findings (1-8), and recommends approval of the Tentative Map.

Recommended Conditions of Approval - Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.

B. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.

C. The Conditions of Approval shall be reproduced on the cover page of the plans submitted for any Building permit for this project.

D. The Use Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.

E. Uses shall be limited to the following tenant spaces per the plans submitted for Planning Commission review:

Tenant Space	Use	Square Footage
A	Common Space	3,292
A1	Medical Office	3,387
A2	General Office	3,665
A3	General Office	3,646
A4	General Office	3,610
B1	General Office	3,637
	Warehouse	3,520

C	Common Area	3,781
C1	General Office	6,146
C2	Warehouse	3,624
C3	Industrial	2,330
C4	General Office	6,124
	TOTAL	46,900

2. COMPLY WITH OR OBTAIN OTHER PERMITS

A. Obtain necessary permits from the Department of Public Works for all proposed off-site improvements including required sidewalks on Stewart Drive.

B. Obtain approval from the Crime Prevention Division of Public Safety Department for crime prevention measures appropriate to the proposed development prior to issuance of a Building Permit.

3. LANDSCAPING

A. Final landscape and irrigation plans shall be submitted to the Director of Community Development subject to approval by the Director of Community Development prior to issuance of a Building Permit. Landscaping and irrigation shall be installed prior to occupancy. The landscape plan shall include the following elements:

B. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.

C. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices.

D. Of new trees installed, 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.

E. Any "protected trees", (as defined in SMC 19.94) approved for removal, shall be replaced with a specimen tree of at least 36-inch box size.

F. At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department. Obtain approval of a detailed landscape and irrigation plan from the Director of Community Development (SMC 19.38.070) prior to issuance of a Building Permit.

G. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.

H. All areas not required for parking, driveways or structures shall be landscaped.

I. Provide increases in parking lot shading where possible. Submit a Parking Lot Shading Plan showing increases in parking lot shading to be reviewed and subject to approval of the Director of Community Development.

4. TREE PRESERVATION

A. Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, obtain approval of a tree protection plan from the Director of Community Development. Two copies are required to be submitted for approval.

B. The tree protection plan shall be installed prior to issuance of any Building Permits, subject to the on-site inspection and approval by the City Arborist.

C. The tree protection plan shall remain in place for the duration of construction.

D. The tree protection plan shall include measures noted in Sunnyvale Municipal Code Section 19.94.120 and at a minimum:

1. An inventory shall be taken of all existing trees on the plan including the valuation of all 'protected trees' by a certified arborist, using the latest version of the "Guide for Plant Appraisal" published by the International Society of Arboriculture (ISA).

2. All existing (non-orchard) trees on the plans, showing size and varieties, and clearly specify which are to be retained.

3. Provide fencing around the drip line of the trees that are to be saved and ensure that no construction debris or equipment is stored within the fenced area during the course of demolition and construction.

E. Overlay Civil plans including utility lines to ensure that the tree root system is not damaged.

5. LIGHTING

A. Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development. Driveway and parking area lights shall include the following:

B. Sodium vapor (of illumination with an equivalent energy savings).

C. Pole heights to be uniform and compatible with the areas, including the adjacent residential areas. Light standards shall not exceed 18 feet on the interior of the project and 8 feet in height on the periphery of the project near residential uses.

D. Provide photocells for on/off control of all security and area lights.

E. All exterior security lights shall be equipped with vandal resistant covers.

F. Wall packs shall not extend above the roof of the building.

G. Lights shall have shields to prevent glare onto adjacent residential properties.

H. Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development. The plan shall meet the specifications noted in the Standard Development Requirements.

6. BICYCLE PARKING

A. Provide bicycle parking spaces per VTA Bicycle Technical Guidelines as approved by the Director of Community Development.

7. RECYCLING AND SOLID WASTE

A. Submit a detailed recycling and solid waste disposal plan to the Director of Community Development for approval.

B. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.

C. Upgrade existing trash enclosures to commercial specifications, title SMC 19.38.030, and submit plans for approval. The required solid waste and recycling enclosure shall be of masonry construction and shall match the exterior design, materials and colors of the main building.

D. The enclosure shall be of masonry construction and shall match the exterior design, materials and color of the main building.

E. Submit a detailed recycling and solid waste plan to Director of Community Development for review and approval.

F. All recycling and solid waste containers shall be metal or State Fire Marshall listed non-metallic.

G. Remove all debris, structures, area light poles, and paving from the site prior to commencement of new construction.

8. ROOF/ROOF SCREENS

A. Roof vents, pipes and flues shall be combined and/or collected together on slopes of roof or behind parapets out of public view to meet code requirements as noted in Sunnyvale Municipal Code Section 19.38.020.

9. SIGNS

A. All existing/new signs shall be in conformance with Sunnyvale Municipal Code. Signs shall be reviewed through a separate permit application.

10. TENTATIVE MAP CONDITIONS

A. The Tentative Map approval shall be valid for a period of two years, measured from the date of approval by the final review authority.

B. The Tentative Map shall be valid only in conjunction with a valid Use Permit.

C. Building permits for the lot or lots within the recorded Final Map may be issued only in accordance with a Valid Use Permit.

D. This permit requires reservation of emergency vehicle ingress-egress easement on the common lot.

E. Full development fees shall be paid for each project parcel or lot shown on Final Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.

F. Comply with all applicable code requirements as noted in the Standard Development Requirements.

G. Identify existing monitoring wells on site and indicate if they will remain or be abandoned as part of project.

11. RIGHT-OF-WAY IMPROVEMENTS

A. Obtain a Development Permit from the Department of Public Works for improvements.

B. Curbs, gutters, sidewalks, streets, utilities, traffic control signs, electroliers (underground wiring) shall be designed, constructed and/or installed in accordance with City standards prior to occupancy. Plans shall be approved by then Department of Public Works.

C. Post labor/material/faithful performance bond for the full cost of all public street and utility improvements.

D. Upgrade existing fire hydrant on DeGuigne Drive to Clow-Rich 75.

E. Replace existing metal street light poles with standard concrete poles.

12. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

A. The developer/Owner shall create an Owner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:

B. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.

C. The owners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.

D. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a owners association, following sale of at least 75% of the units, whichever comes first.

E. The Conditions of Approval of this Use Permit.

F. The CC&Rs shall contain the following language:

G. "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.

H. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken

by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.

I. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

J. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.

K. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.

L. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.

M. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."