Recommended Conditions of Approval - Special Development 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. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.

C. The Special Development 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.

D. To address storm water runoff pollution prevention requirements, an Impervious Surface Calculation worksheet is required to be completed and submitted for the California Regional Water Quality Control Board prior to issuance of a Building Permit.

E. Deviations permitted by this permit are expressly as follows:

1. Minimum lot size less than 8,000 square feet
2. 3-foot side yard setback for front unit (left side along driveway)

F. Reduce the overall Floor Area Ratio of the site to a maximum 50%.

2. DESIGN/EXTERIOR COLORS AND MATERIALS

A. Final exterior building materials and color scheme are subject to review and approval of the Planning Commission/Director of Community Development prior to issuance of a building permit.

B. Roof material shall be 50-year dimensional composition shingle, or as approved by the Director of Community Development.

3. FENCES

A. Design and location of any proposed fencing and/or walls are subject to the review and approval by the Director of Community Development.

B. Such fences may extend along side property lines, but do not extend beyond the front line of the main building on each lot.

C. For front yard fences in residential areas, open decorative type fences, such as picket, post and rail are preferred.

D. Chain link and barbed wire fences are not allowed in residential areas.

E. Only fences, hedges and shrubs or other natural objects 3 feet or less in height may be located within a "vision triangle" (For definition, refer to Vision Triangle brochure or SMC 19.12.040(16), SMC 19.12.050 (12))

4. LANDSCAPING

A. 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.

B. A tree protection plan shall be submitted for any existing trees on the site. Where possible, trees shall be protected and saved. Provide an inventory and valuation of any trees proposed to be removed prior to issuance of building permits.

C. The landscape plan shall including street trees and shall be submitted and approved per the City Arborist.

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

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

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

5. 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 implemented 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.

6. PARKING

A. Garage spaces shall be maintained at all times so as to allow for parking of vehicles.

7. UNDERGROUND UTILITIES

A. All existing and proposed utilities shall be undergrounded.

B. Applicant shall provide a copy of an agreement with affected utility companies for undergrounding of existing overhead utilities which are on-site or within adjoining rights-of-way prior to issuance of a Building Permit or a deposit in an amount sufficient to cover the cost of undergrounding shall be made with the City.

8. TENTATIVE MAP CONDITIONS

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

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

C. Obtain necessary permits of the Development Permit from the Department of Public Works for all proposed off-site improvements.

D. 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.

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

E. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney. (Note: a homeowner's association and CC&R's are required for subdivision of 5 or more units only.)

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

G. 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 homeowners association, following sale of at least 75% of the units, whichever comes first.

H. The Conditions of Approval of this 2005-0187 Permit.

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

J. "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.

K. 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.

L. 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.

M. 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.

N. 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.

O. 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.

P. 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."

RIGHT-OF-WAY IMPROVEMENTS

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

R. 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.