



**Draft for Planning Commission Review on November 25, 2013**

**City Council Hearing Date:** December 17, 2013  
**File Number:** 2013-7645

**SUBJECT:**           **Discussion and possible action on an application to develop a 4.02 acre site with 85 residential townhouse units located at 617 - 641 E. Arques Avenue, 302 - 318 N. Fair Oaks Avenue, and 612 - 622 E. Taylor Avenue in a M-S/ITR/R-3 and R-3 Zoning District (APNs: 205-30-009, 010, 011, 012, 016, 017, 018).**

Introduction of an Ordinance to **REZONE** one parcel at 318 N. Fair Oaks Ave **from R-3 to R-3/PD**;  
**SPECIAL DEVELOPMENT PERMIT** to allow the development of 85 townhouse units; and  
**VESTING TENTATIVE MAP** to subdivide 7 parcels into 85 lots and one common lot; and  
**MITIGATED NEGATIVE DECLARATION** for the Rezone, Vesting Tentative Map and Special Development Permit.

<b>Applicant / Owner:</b>	SummerHill Homes
<b>Existing Site Conditions</b>	Industrial Light Manufacturing & Commercial Warehouse, Restaurant & Apartments
<b>Surrounding Land Uses</b>	
North	Residential
South	Industrial
East	Multi-Family Residential
West	Multi-Family Residential
<b>Issues</b>	Front Setbacks, Distance Between Buildings, Usable Open Space
<b>Environmental Status</b>	A Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines.
<b>Staff Recommendation</b>	Approve the Mitigated Negative Declaration, Rezoning, Tentative Map and Special Development Permit with conditions

## **PROJECT DESCRIPTION**

The proposed development is located on seven parcels that have frontages on three public streets, including N. Fair Oaks Ave., E. Arques Ave. and E. Taylor Ave. (Vicinity Map - Attachment A). The proposal consists of demolishing the existing industrial and commercial buildings, and a 9-unit apartment building. The new development consists of 19 buildings to accommodate 85 residential townhouse units. Site improvements include private streets, uncovered parking, landscaping and two dedicated public bicycle and pedestrian pathways through the site. A Project Data Sheet is located in Attachment B.

- **Rezone**

A rezone is being requested to change the current zoning of one of the subject parcels from “Residential Medium Density” (R-3) to “Residential Medium Density/Planned Development” (R-3/PD). The affected 0.39 acre parcel comprises less than 10% of the development area.

- **Special Development Permit**

A Special Development Permit (SDP) is required for projects within the PD Combining Zoning District for site and architectural review. An SDP also allows for deviations from Zoning Code requirements and in this case the applicant is requesting three deviations: front setbacks, distance between buildings, and usable open space. The findings for the SDP deviations have been included in the findings in Attachment C.

- **Vesting Tentative Map**

The proposed project requires a Final Map to create the 85 individual townhouse ownership lots and one common lot from the existing seven parcels. The purpose of the Tentative Map is to entitle the project shown on the site plans, by displaying the location of lot lines for buildings, streets (public or private), etc.; the Final Map must be in substantial conformance to the Tentative Map. As indicated on the plans, a total of 85 residential units are proposed for the site. A Vesting Tentative Map vests the developer’s right to build the project for the life of the map. It also secures the approved project against future Sunnyvale Municipal Code (SMC) changes by the City that might otherwise affect the project.

The Vesting Tentative Map is valid only in conjunction with the approved site map and approved Conditions of Approval. The Tentative Map Conditions of Approval are listed in Attachment D and the Tentative Map plans can be found in Attachment H.

**BACKGROUND**

**Previous Actions on the Site**

Until the subject proposal, no formal application had been reviewed to redevelop the site with residential development. Several use permits for various industrial and commercial uses have been granted previously on the seven properties that compose the subject site. The following table summarizes previously related planning applications of the combined site.

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
2013-7524	Preliminary Review	Staff /Completed	6/24/13
2012-7111	Council Study Issue: Pedestrian Plans for ITR Areas (incl. Fair Oaks Junction Sense of Place Plan)	City Council/Approved	10/2/12
1998-0931	Futures Study/General Plan Amendment	City Council / Approved	7/27/93

**Planning Commission Study Session**

On September 23, 2013, the Planning Commission reviewed the proposed development. The Planning Commission commended the applicant for the assemblage of properties and the integration of the public pathways on the site. The Commissioners noted concerns regarding the number of proposed deviations including the front setbacks, separation between the buildings and parking. The applicant has since reduced the number of units from 87 to 85, which has allowed for more space between the units and the ability to meet the minimum parking requirement. Additional Planning Commission comments related to the proposed architecture and color palette. The applicant has introduced more color variation and made modifications to the garage façade of the buildings as well as those elevations facing the private street.

**ANALYSIS:**

**Rezoning**

The requested rezoning of R-3 to R-3/PD that is under consideration is for a 0.39 acre parcel along N. Fair Oaks. The remaining site area is currently zoned with the PD combining district. The PD combining district request does not change the permitted density of the site, but instead is a common tool utilized throughout Sunnyvale for development projects. The PD combining district allows for flexibility in meeting the City's development standards while achieving a well-designed project that meets the City's design guidelines. Increased standards are sometimes required to offset flexibility in other standards. The City Council Policy Guideline for approving a PD zoning request states that the purpose is "to allow for a proposed use that is compatible with

the neighborhood but requires deviations from development standards for a successful project.” The Zoning Code (Section 19.26.020) further elaborates on the purpose as follows:

“The purpose of the PD combining district is to provide modifications, additions and limitations to other zoning districts to meet special conditions and situations concerning properties within such zoning districts that cannot otherwise be handled satisfactorily. This district is also intended to provide opportunities for creative development approaches and standards that will achieve superior community design, environmental preservation and public benefit . . .”

The project was initially proposed with 88 units (approximately 22 dwelling units per acre) and included deviations for parking, setbacks, separation between buildings and usable open space. Staff worked with the applicant to reduce the number of deviations and increase the amount of open space for the project. Based on Planning Commission comments at a study session and further discussions with staff, the project has been reduced to the current proposal of 85 units. The project no longer requests a deviation to the required parking. Discussion of the remaining deviations is covered below under Development Standards.

The recent modifications to the proposal have reduced the density to be more in character with neighboring development. The current proposal results in a density of approximately 21 dwelling units per acre, which is consistent with the R-3 zoning district (maximum 24 d.u. per acre) and General Plan Designation of Residential Medium Density. The adjacent Classic Communities development along E. Arques Ave. was built at 19 dwelling units per acre and the City Ventures development along E. Taylor Ave. was built at approximately 20 dwelling units per acre. The recently approved project by Warmington Residential is approximately 18 dwelling units per acre.

### **Architecture and Site Design**

The proposed 85-unit development will consist of 19 buildings. Four of the buildings contain six units, two contain five units, twelve contain four units, and one building contains three units. Most of the units will contain three or four bedrooms, with only three units containing two bedrooms. Each unit will have two garage spaces. The proposed Mission architectural style predominantly utilizes stucco material for the façade with wood and metal railing accent elements incorporated into balconies and window detailing. To exemplify the architectural style, tile roof material is used throughout. In response to staff comments, wood bracketing and trellises have been added along certain elevations and wood shutters have been added along upper story windows.

The site plan includes a private road connecting E. Arques Ave. to E. Taylor Ave. Intersecting the private road are common driveway aisles that provide access to the garages of the individual units. A loop road also connects several buildings. Guest parking is evenly distributed throughout the site. An open lawn area adjacent to a clubhouse is located in the southern portion of the site.

As stated previously, the applicant has modified the site layout and reduced the number of units. This modification enabled increasing the separation between the buildings and eliminating a parking deviation. To break up the interface and visual corridor effect of the structures along the private street, the setback of the building varies slightly. Certain landscaping treatment is also designed to soften the appearance. Staff is recommending additional architectural variation to the side elevations facing the private street per Condition of Approval PS-2a (Attachment D). The modifications may include architectural treatment to the entry and/or introduction of additional materials.

Staff is recommending speed humps be installed within the private street to reduce speeding and cut through-traffic within the development, per Condition of Approval PS-2b (Attachment D). As designed, the east-west public pathway is slightly elevated where it intersects the private street.

### **Development Standards**

The proposed development complies with a majority of the applicable development standards as set forth in the Sunnyvale Municipal Code. The Project Data Table (Attachment B) summarizes the proposed project and relationship to applicable zoning standards, with requested code deviations noted below.

### **Setbacks**

The proposed development contains three street frontages. The applicant is requesting reduced setback on all three frontages. (Refer to Attachment H, Page 4 for setback information.)

	<b>Average (ft.)</b>	<b>Minimum (ft.)</b>
<b>Requirement</b>	20	15
<b>E. Arques</b>	17	10
<b>N. Fair Oaks</b>	17	10
<b>E. Taylor</b>	17	15

The proposed deviations to front yard setback are proposed to accomplish several architectural and project enhancements:

- Along N. Fair Oaks Ave. and E. Arques Ave., an integrated covered entry and second-story balcony element is located 10 feet from the front property line (buildings TH1, TH2 and TH3). This architectural feature,

consisting of unenclosed living space, accentuates the front entries of the townhome units. Additionally, several other second-story balconies are located 13 feet from the front property line and help to break up the flat appearance of the buildings. Other than these deviations, the buildings meet the minimum 15-foot setback. Deviations for such entry and balcony features have been approved for similar townhome developments in the city.

- The side yard setbacks within the project have been increased from a minimum 12 feet to 14-15 feet at staff's request to accommodate a public pathway system through the project (further discussed in the Pedestrian Circulation and Sense of Place Plan section of the report). To accommodate the increased side yard setbacks, the applicant has proposed shifting several buildings (TH1, TH2, TH3, TH9 and TH10) slightly closer to the street such that the average front yard setbacks are 17 feet instead of 20 feet. This deviation complies with the intended purpose of the PD combining district which allows for flexibility in applying zoning standards to achieve a better community design, which for this project involves dedicating a public pathway system through the project to implement the Sense of Place Plan.

As mentioned above, the project exceeds the side yard setback standard and varies from 14-15 feet. The three-story townhomes on the neighboring Classic Communities development along E. Arques Ave. are approximately 12 feet from the property line. The City Ventures three-story townhomes along E. Taylor are approximately 23 feet from the property line. Therefore, the building separation between this project and adjacent projects varies from 26 to 38 feet.

### **Distance Between Buildings**

The Zoning Code requires a 26-foot separation between buildings. For a majority of the development, the average distance between buildings is 26'-4", with a minimum of 22'-5" at certain locations. Although the projecting balconies are not subject to the building separation standard, the distance between second-story balconies at the corners of the buildings is approximately 17'-6". These dimensions represent an increase of approximately 2'-6" from the earlier plans reviewed by the Planning Commission, which was achieved by eliminating several units and adjusting the site plan. While a deviation to the building separation standard is proposed, maintaining an average of 26 feet meets the intent of the standard and allows for architectural enhancements to break up the building mass and façade.

A further reduction in building separation is proposed between buildings TH7 and TH8 where the average separation is 23'-9" with second-story balconies approximately 15 feet apart. This deviation is related to constraints due to the configuration of the parcel at this location and the required space for adjacent parking.

Finally, reduced building separations are also noted between the ends of buildings TH1 and TH2 along N. Fair Oaks Ave. and between the clubhouse and buildings TH4 and TH5. Such deviations have commonly been allowed for similar townhome projects.

### **Usable Open Space**

The project is required to provide a minimum of 400 square feet of usable open space per unit through common areas and private patios and balconies. The applicant has illustrated the proposed usable open space and landscaping in Attachment H, Page 33. In compliance with the Fair Oaks Sense of Place Plan, the applicant has offered to dedicate public pathway easements through the project. While these easements are a desired community benefit, they do not count towards the required usable open space for the project under the Zoning Code as the space is not for the exclusive use of project residents. However, these pathways would directly benefit future residents and if these dedicated easements were credited toward usable open space, the proposed project would not require a deviation to this standard.

### **Landscaping and Tree Preservation**

The project is providing more than the required amount of landscape area through various paseos between buildings, landscaping along three street frontages and the interior streets, a common open space, and the private patios for residents. A tree survey was conducted for the site which evaluated 96 trees on the subject site and within the public right of way. A total of 33 of these trees qualify as protected trees. Each of the five street trees which lie along E. Arques were considered to be in fair or poor condition and determined not suitable for preservation. Many of the on-site trees are located in the proposed roadway or within a building footprint. All but one of trees on-site was also considered to be in poor or fair condition. Trees are allowed to be removed through the review of the Special Development Permit. The project will be planting approximately 20 24-inch box street trees along street frontages at a replacement ratio of 4:1. Conditions of Approval require that protected trees be replaced with 36" box trees at a 1:1 ratio. Overall, the project is expected to replace the site with approximately 154 trees.

### **Parking**

Since the Planning Commission study session, the project has been redesigned to meet parking requirements. This was achieved partly by reducing the number of units as well as changing the mix of two, three and four-bedroom units. The proposed project would accommodate covered parking requirements through two-car garages for each unit. A total of 49 unassigned spaces are located throughout the development.

### **Trash and Recycling**

The project proposes to utilize individual trash and recycling pick-up service for the development. A staging area for bins along the private street is provided for the adjacent three and four-unit buildings. Pick-up service for the remaining

development will be located directly in front of the individual units. Public Works staff has preliminarily determined that the plan satisfies trash and recycling guidelines.

### **Pedestrian Circulation and Sense of Place Plan**

The subject site is located within the boundaries of the Fair Oaks Junction Sense of Place Plan. Developments within the plan area are required to pay a Sense of Place fee of \$1,096.70 per dwelling unit, which results in a fee of \$93,219.50 which will be used to implement elements of the plan as determined by the City. Interior to the site, a pedestrian walkway is located along the west side of the private street and around the larger open area. The Sense of Place Plan also calls for dedicating public access easements through the project site for bicycle and pedestrian pathways. The applicant has incorporated these public pathways in the project and they bisect the site in east-west and north-south directions (Attachment H, Page 4). These easements are 14-15 feet in width and would include a 10-foot wide paved path with landscaping.

The Sense of Place Plan requires the project to implement specific public sidewalk improvements along each street frontage for the site. For the portion of the site with frontage along N. Fair Oaks Ave., a 10-foot wide sidewalk with 4-foot by 5-foot tree wells would be installed. A 5-foot wide parkstrip and 5-foot wide sidewalk is planned along E. Arques Ave. Along E. Taylor Ave., a 4-foot wide park strip and 5-foot wide sidewalk would be constructed.

The Sense of Place Plan further requires neighborhood pathfinding signs at certain locations. The preliminary landscape plan indicates four signs, including a location at either end of the north-south pathway at the eastern end of the site, near the E. Arques Ave. and N. Fair Oaks Ave. intersection and at the intersection of the public sidewalk of the east-west pathway. Street furniture such as benches and bicycle racks are planned near the dedicated pathways. Light poles for the area are proposed along the public streets and dedicated pathways, as shown in the provided plans. Final design and locations of these public improvements will be determined during the Building Permit plan check process in collaboration with Department of Public Works staff (Condition of Approval EP-3).

### **Green Building Requirements**

The project is required to achieve a minimum of 80 Build-it-Green points. The applicant is proposing to achieve 90 points at this stage of the project. As the plans are further refined, the total points may go down slightly, but never below the required 80 points.

### **Balanced Growth Profile (BGP)**

The City has a Balanced Growth Profile (BGP) that tracks the changes to seven indicators; it is updated at least annually. Attachment G shows a tabulation of

the change in residential housing units and industrial/commercial square footage associated with the Rezoning and Special Development Permit.

### **Below Market Rate (BMR) Units**

The project is subject to the City's Below Market Rate (BMR) requirements. The applicant may provide either 12.5% of the development (10.625 units) as BMR units or pay an in-lieu fee (if approved by the City Council). At this time, the applicant has indicated that the project will contribute 10 units to the BMR program and pay the in-lieu fee for the additional fractional amount required as enabled through the program.

### **Environmental Review**

A Mitigated Negative Declaration (MND) was prepared in compliance with the California Environmental Quality Act (CEQA) (Attachment E). The noise study indicated that the development would need to provide mitigation for interior noise levels facing N. Fair Oaks Ave. and E. Arques Ave. The initial study included further discussion about air quality and hazards and hazardous materials, which included mitigation measures. Mitigation measures for air quality are designed to reduce dust and exhaust caused during demolition, grading and construction of the project caused by demolition of the existing development. Based on the existing development, the net peak hour trips decrease by approximately 40 a.m. and 67 p.m. trips; therefore, the project does not meet the 100 net new trip threshold that would necessitate a Traffic Impact Analysis (TIA). Mitigation measures have been incorporated in the attached Conditions of Approval (Attachment D) at the appropriate states of construction.

### **Impact on Surrounding Neighborhood**

As intended by previous ITR zoning efforts, the project is expected to change the character of the site and neighborhood by replacing mostly one-story industrial and commercial uses with three-story multi-family townhouses. The proposed development is similar in scale to recently approved and constructed three-story townhomes in the neighborhood. The redevelopment would further improve compatibility over existing uses with established older two-story multi-family apartment uses at N. Fair Oaks Ave. and E. Taylor Ave. The redevelopment is expected to improve bicycle and pedestrian circulation in the neighborhood as intended by the Fair Oaks Junction Sense of Place Plan. As stated previously, the project is not expected to increase traffic or result in impacts to the area.

### **FISCAL IMPACT**

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No fiscal impacts other than normal fees (such as Park In-lieu, Sense of Place, sewer and water connections, building permits) and taxes are expected. As noted above, a decrease in net peak hour trips results when using criteria to determine if a TIA is required; however, the project is subject to a Transportation Impact Fee, due to the adopted use categories for determining

whether an impact fee is required. The project is subject to a \$17,353.04 fee based on the proposed development. As stated in Conditions of Approval BP-11, the Park In-Lieu fee is estimated at \$1,816,458.53 and the Sense of Place fee is estimated at \$93,219.50. These amounts may change depending on the fees in place at the time of payment.

**PUBLIC CONTACT**

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The applicant conducted an outreach meeting on September 17, 2013. The presented plan consisted of 87 units with a slightly different layout (20 buildings). Approximately 10 members of the public attended, including neighboring residents and owners of the subject properties. Comments included questions regarding the expected length of construction and the possibility of providing a pedestrian connection to the neighboring Classics at Fair Oaks development to the east. The applicant has explored this concept with each development to the east (Classics and City Ventures), but no agreement has been made at this time. Staff included Condition of Approval GC-15 which requires the applicant to work with the adjacent Homeowner’s Associations to determine if an appropriate location for a pedestrian connection can be made.

Staff received one comment prior to the draft of this report (Attachment I). The letter cites concerns with traffic, overcrowding, schools, and impact on rent prices. As stated in the report, expected traffic resulting from the development would be minimal and less during current peak hour periods. The project would introduce new residents to the area but does not exceed the density of the underlying R-3 zoning district. Public hearing notices were sent to property owners and tenants within 500 feet of the project site (Public Hearing Noticing Map in Attachment J).

<b>Notice of Negative Declaration and Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Posted on the site</li> <li>• 259 notices mailed to the property owners and tenants within 500 ft. of the project site</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City of Sunnyvale's Website</li> <li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City's official notice bulletin board</li> <li>• City of Sunnyvale's Website</li> </ul>

## **CONCLUSION**

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Staff was able to make the required Findings based on the justifications for the Permit located in Attachment C and subject to the Recommended Conditions of Approval in Attachment D.

Staff believes there are valid reasons to support the deviations related to front yard setbacks, separation between buildings, and usable open space. The reduced front yard setbacks allow for a more active street frontage and are consistent with neighboring, multi-family residential development. The required public pathway improvements provide challenges to meet usable open space, minimum density and building separation. Although not included in usable open space, the front yards are landscaped and development standards for overall site landscaping are exceeded. The project facilitates the redevelopment of six separately developed parcels with a more compatible and desirable use, as intended by the PD Combining District. By consolidating parcels, the project facilitates public improvements that are called out in the Fair Oaks Junction Sense of Place Plan. The project further promotes City policies to increase home ownership opportunities and contributes to the City's BMR Program.

## **ALTERNATIVES**

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1. Adopt the Mitigated Negative Declaration; introduce an Ordinance to Rezone 318 N. Fair Oaks Ave. from R-3 to R-3/PD zoning; and approve the Vesting Tentative Map and Special Development Permit with attached conditions.
2. Adopt the Mitigated Negative Declaration; introduce an Ordinance to Rezone 318 N. Fair Oaks Ave. from R-3 to R-3/PD zoning; and approve the Vesting Tentative Map and Special Development Permit with modified conditions.
3. Adopt the Mitigated Negative Declaration; do not introduce an Ordinance to Rezone 318 N. Fair Oaks Ave. from R-3 to R-3/PD zoning; and deny the Vesting Tentative Map and Special Development Permit.
4. Do not adopt the Mitigated Negative Declaration and direct staff as to where additional environmental analysis is required.

## **RECOMMENDATION**

Staff recommends Alternative 1 to adopt the Mitigated Negative Declaration; introduce an Ordinance to Rezone 318 N. Fair Oaks Ave. from R-3 to R-3/PD; and approve the Vesting Tentative Map and Special Development Permit with attached conditions.

Staff was able to make the required findings to rezone the site, and approve a Special Development Permit and Vesting Tentative Map based on the plans, justifications and supplemental studies provided by the applicant in relationship to General Plan Goals and Policies. Recommended Findings and related General Plan Goals and Policies are located in Attachment C.

Reviewed by:

Hanson Hom, Director, Community Development  
Prepared by: Ryan Kuchenig, Associate Planner  
Reviewed by: Trudi Ryan, Planning Officer

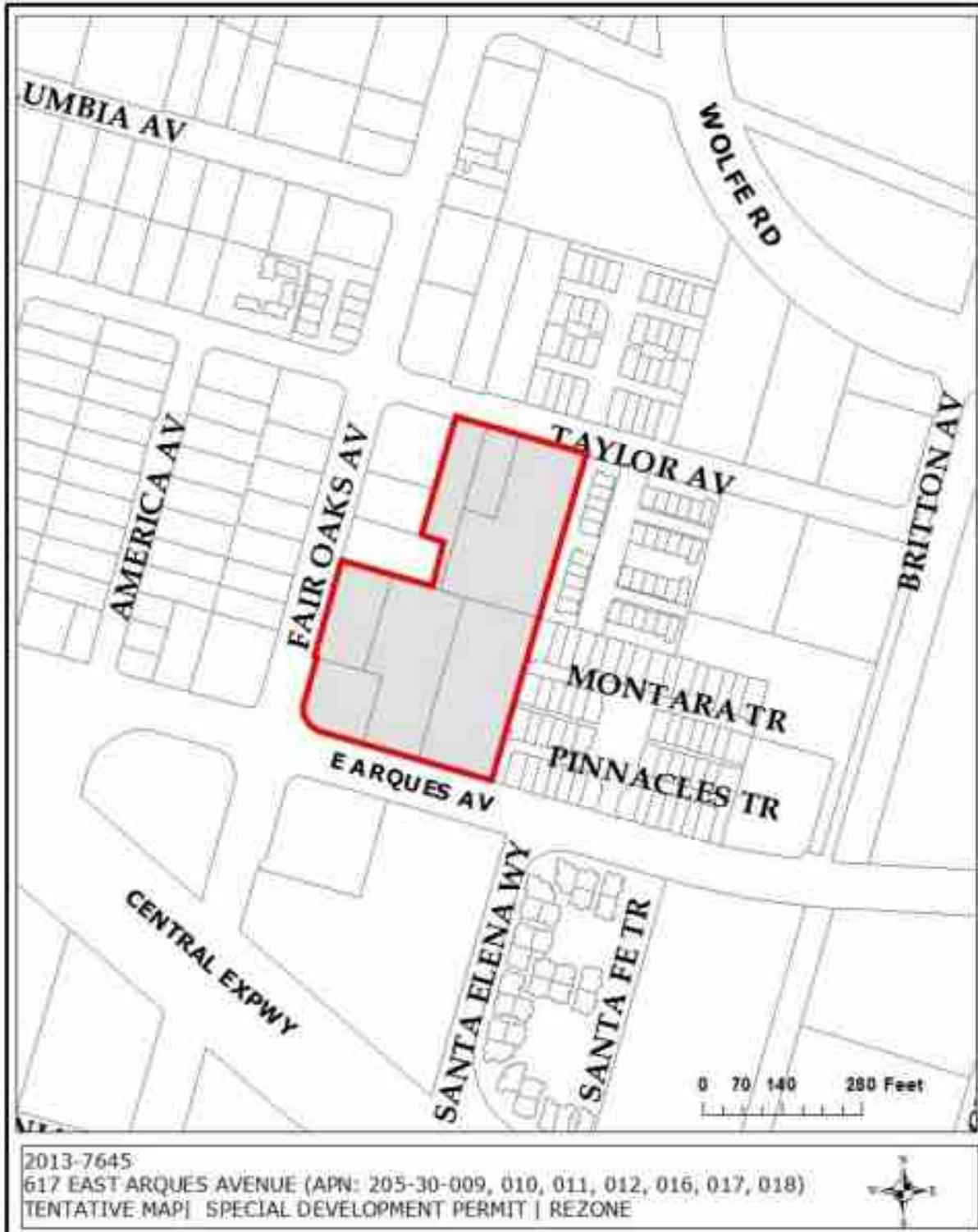
Approved by:

Gary M. Luebbers  
City Manager

## **Attachments**

- A. Vicinity Map
- B. Data Table
- C. Findings for Approval
- D. Conditions of Approval
- E. Mitigated Negative Declaration
- F. Draft Ordinance rezoning 318 N. Fair Oaks Ave. from R-3 to R-3/PD  
(with map)
- G. Balanced Growth Profile 2013
- H. Project Plans dated November 18, 2013
- I. Letters from Interested Parties
- J. Public Hearing Noticing Map

### VICINITY MAP



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Industrial to Residential Medium Density	No Change	Industrial to Residential / Medium Density
<b>Zoning District</b>	M-S/ITR/R-3/PD & R-3 (318 N. Fair Oaks Ave.)	R-3/PD	Same
<b>Lot Size (s.f.)</b>	200,131	176,081	8,000 sf. min.
<b>Gross Floor Area (s.f.)</b>	Approx. 54,240	132,900	No max.
<b>Lot Coverage (%)</b>	26%	36%	40% max.
<b>Floor Area Ratio (FAR)</b>	27%	76%	No max.
<b>No. of Units</b>	6	85	97 max.
<b>Bedrooms/Unit</b>	N/A	Two Bedroom - 3 Three Bedroom - 36 Four Bedroom - 46	---
<b>Density (units/acre)</b>	N/A	21	24 max.
<b>Meets 75% min?</b>	N/A	Yes	18 min.
<b>Unit Sizes (s.f.)</b>	N/A	1,780 – 2,100 sf. (incl. garage)	---
<b>No. of Buildings On-Site</b>	13	19	---
★ <b>Distance Between Buildings (ft.)</b>	N/A	22' 5" min. & 26' 4" average (20' min. & 23' 9" average between Buildings #7 & 8)	26 min.
<b>Building Height (ft.)</b>	N/A	35	35 max.
<b>No. of Stories</b>	N/A	3	3
<b>Setbacks (ft.)</b>			
★ <b>Front (west – N. Fair Oaks)</b>	N/A	10' – 20' (17' average)	15' min & 20' average
★ <b>Front - E. Arques</b>	N/A	10' – 20' (17' average)	15' min & 20' average
★ <b>Front – E. Taylor</b>	N/A	15' - 20' (17' average)	15' min & 20' average

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>Side - East</b>	N/A	14' – 15'	12' min.
<b>Landscaping</b>			
<b>Total Landscaping (s.f.)</b>	N/A	46,560 (27%)	35,216 min. (20%)
<b>Landscaping/Unit (s.f.)</b>	N/A	548	425 min
★ <b>Usable Open Space/Unit</b>	N/A	344 (456 if <i>Sense of Place pathway is included</i> )	400 min.
<b>Frontage Width (ft.)</b>	N/A	15'-17'	15 min.
<b>Water Conserving Plants</b>	N/A	80%	80% + limit turf, or water budget
<b>Recreation Building (s.f.)</b>	N/A	480	450
<b>Parking</b>			
<b>Standard Spaces</b>	N/A	219	219 min.
<b>Compact Spaces/ % of Total</b>	N/A	5	10% max. of uncovered/ guest spaces
<b>Accessible Spaces</b>	N/A	2	Per ADA requirements
<b>Covered Spaces</b>	N/A	170	170 min.
<b>Aisle Width (ft.)</b>	N/A	26'	24 min. (30 for Fire Access)
<b>Bicycle Parking</b>	N/A	In garages ( <i>public bicycle racks provided throughout, per SOP Plan</i> )	Secured (1 per 4 units)
<b>Stormwater</b>			
<b>Impervious Surface Area (s.f.)</b>	169,610	131,620	No max.
<b>Impervious Surface (%)</b>	97%	75%	No max.
★ <i>Starred items indicate deviations from Sunnyvale Municipal Code requirements.</i>			

## RECOMMENDED FINDINGS

### Rezone

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#### Finding:

1. The amendment, as proposed, changed or modified is deemed to be in the public interest. (*Finding Met*)

A majority of the site is located in the Industrial to Residential (ITR) Medium Density Residential (R-3) Planned Development (PD) combining district. The 0.39 acre parcel at 318 N. Fair Oaks does not contain the PD combining district, while the other parcels associated with the project do contain the PD combining district. The proposed development meets the density requirements of the underlying zoning. Staff finds that the rezoning accommodates the development by enabled increased redevelopment opportunity and improving the project's site layout. The proposed development would implement several General Plan and Council Policies including:

#### General Plan Goals and Policies:

- **Policy LT-2.1** Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.
- **Policy LT-3.1** Provide land use categories for and maintenance of a variety of residential densities to offer existing and future residents of all income levels, age groups and special needs sufficient opportunities and choices for locating in the community.
- **Policy LT-3.2** Encourage the development of ownership housing to maintain a majority of housing in the city for ownership choice.
- **Policy LT-4.2** Require new development to be compatible with the neighborhood, adjacent land uses, and the transportation system.
- **Policy LT-4.4** Preserve and enhance the high quality character of residential neighborhoods.
- **Policy LT-4.9** Allow industrial, residential, commercial, and office uses in the Industrial to Residential (ITR) Futures sites.

- **Policy LT-5.9** Appropriate accommodations for motor vehicles, bicycles, and pedestrians shall be determined for City streets to increase the use of bicycles for transportation and to enhance the safety and efficiency of the overall street network for bicyclists, pedestrians, and motor vehicles.
- **Policy LT-5.10** All modes of transportation shall have safe access to City streets.
- **Policy LT-5.11** The City should consider enhancing standards for pedestrian facilities.
- **Policy CC-2.1** Maintain and provide attractive landscaping in the public right-of-way to identify the different types of roadways and districts, make motorists more comfortable and improve the enjoyment of residential neighborhoods.
- **Policy HE-1.1** Encourage diversity in the type, size, price and tenure of residential development in Sunnyvale, including single-family homes, townhomes, apartments, mixed-use housing, transit-oriented development and live-work housing.
- **Policy HE-4.2** Continue to direct new residential development into specific plan areas, near transit, and close to employment and activity centers.
- **Policy HE-4.3** Require new development to build to at least 75 percent of the maximum zoning density, unless an exception is granted by the City Council.

### **Special Development Permit**

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1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. (*Finding Met*).

The proposed project meets the goals and policies of the General Plan as listed above by creating 85 ownership residential units that promote housing goals for the community. The project also meets the policy for a minimum 75% of the allowable density for the zoning district.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the

application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties. (*Finding Met*)

The proposed project proposes a dwelling unit type compatible with the immediate area. The project requires deviations in setbacks, building separation, and usable open space which are acceptable and compatible with the immediate area. In addition, the project would complete several of the public bicycle and pedestrian improvements called out in the Fair Oaks Junction Sense of Place Plan. Further contributions for public improvements are required, per Conditions of Approval. The conversion of the site to residential uses and respective density is consistent with the General Plan land use designation and Zoning. The site layout and public circulation improvements complement the surrounding neighborhood and will greatly improve the appearance of the area.

## **Tentative Map**

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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 (B.1-8), and recommends approval of the Vesting Tentative Map.

# ATTACHMENT D

## RECOMMENDED CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS NOVEMBER 25, 2013

### Planning Application 2013-7645

617 – 641 E. Arques Ave, 302 – 318 N. Fair Oaks Ave.,  
& 612 - 622 E. Taylor Ave.

Rezone, Special Development Permit and Vesting Tentative Map  
for an 85-unit townhouse development

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with “Mitigation Measure” and placed in the applicable phase of the project.

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 and Standard Development Requirements of this Permit:

<b>GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.</b>
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GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. PERMIT EXPIRATION:

The 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 and is approved by the Director of Community Development. [SDR] [PLANNING]

GC-3. INDEMNITY:

The applicant/developer shall defend, indemnify, and hold harmless the City, or any of its boards, commissions, agents, officers, and employees (collectively, "City") from any claim, action, or proceeding against the City to attack, set aside, void, or annul, the approval of the project when such claim, action, or proceeding is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the developer of any such claim, action or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith. [COA] [OFFICE OF THE CITY ATTORNEY]

GC-4. TEMPORARY TRAILERS:

Temporary sales trailer(s) on the site shall be subject to separate review and approval by the Director of Community Development. Plans for temporary trailers shall include the following:

- a) Trailers shall be placed on the premises not sooner than 15 days following the date of final project approval by the City and shall be removed no later than 30 days after the final unit is sold;
  - b) Trailer entrances shall be oriented toward the nearest building;
  - c) Area lighting shall be provided in the vicinity of temporary trailers.
- [COA] [PLANNING]

GC-5. ON-SITE AMENITIES:

Swimming pools, pool equipment structures, play equipment and other accessory utility buildings, except as otherwise subject to Planning Commission review, may be allowed by the Director of Community Development subject to approval of design, location and colors. [COA] [PLANNING]

GC-6. BMR UNITS (OWNERSHIP):

The approved project is subject to the City's Below Market Rate (BMR) requirements as set forth in Sunnyvale Municipal Code Chapter 19.66, pursuant to the procedures established in the Administrative Procedures, as may be amended. The project will provide at least 10.625 Below Market Rate dwelling units, or pay the in-lieu fee, in compliance with the BMR requirements set forth in the SMC and the Administrative Procedures ( [SDR][HOUSING]

- GC-7. RECREATION FACILITIES:  
The recreation facilities (clubhouse) shall be installed in connection with the first phase and included on the building permit plans for the first phase. [COA] [PLANNING]
- GC-8. STORMWATER MANAGEMENT PLAN:  
Project is subject to Provision C3, of the Municipal Regional Stormwater Permit Order No. R2-2009-0074, as determined by a completed "Stormwater Management Plan Data Form", and therefore must submit a Stormwater Management Plan as per SMC 12.60.140 prior to issuance of the building permit. [SDR] [PLANNING]
- GC-9. OFF-SITE IMPROVEMENT PLANS:  
Submit off-site improvement plans separate from the Building on-site improvement plans as the off-site improvement plans are approved through a Public Works Encroachment Permit process. [SDR] [PUBLIC WORKS]
- GC-10. ENCROACHMENT PERMIT:  
Prior to any work in the public right-of-way, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Department of Public Works. [SDR] [PUBLIC WORKS]
- GC-11. PUBLIC IMPROVEMENTS:  
Developer shall install public improvements as required by Sunnyvale Municipal Code Sections 18.08, including but not limited to, curb & gutter, sidewalks, driveway approaches, curb ramps, street pavements, utility extensions and connections, meters/vaults, trees and landscaping, traffic signal/signs, striping, street lights, etc.
- All public improvements shall be designed and constructed in accordance with current City design standards, standard details and specifications, and Americans with Disabilities Act (ADA) requirements where applicable, unless otherwise approved by the Department of Public Works. [COA] [PUBLIC WORKS]
- GC-12. ENCROACHMENT PERMIT REQUIREMENTS:  
The developer is required to install all public improvements as required by Sunnyvale Municipal Code (SMC) section 18.08, including but not limited to: curb & gutter, sidewalks, driveway approaches, curb ramps, street pavements, utility extensions and connections, meters/vaults, trees and landscaping, traffic signal/signs, striping,

street lights, etc.) prior to occupancy as required by the Director of Public Works. [SDR] [PUBLIC WORKS]

GC-13. FINAL MAP RECORDATION:

This project is subject to, and contingent upon the approval of a tentative map and recordation of a tract map. The submittal, approval and recordation of the tract map(s) shall be in accordance with the provisions of the California Subdivision Map Act and Sunnyvale Municipal Code Title 18 Subdivision requirements. Final map shall be recorded prior to any grading or building permit issuance. [SDR] [PUBLIC WORKS]

GC-14. MULTIPLE MAPS:

If multiple maps are filed, all public improvement plans for the entire project shall be approved prior to first map recordation. All public improvements shall be completed prior to first building occupancy of the first map, unless otherwise approved by the Director of Public Works. [COA] [PUBLIC WORKS]

GC-15. PEDESTRIAN CONNECTION TO NEIGHBORING DEVELOPMENTS TO THE EAST:

The project applicant and shall work with the Homeowners Associations of the neighboring Classics Communities and City Ventures townhouse developments to the east to determine if and where a logical pedestrian connection can be made. [COA] [PLANNING]

GC-16. NOTICE OF FEE PROTEST:

As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the city as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city impact fee schedule.

**PS: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.**

PS-1. REVIEW OF FINAL DESIGN:

Final architectural design, site design, exterior building materials, and color schemes are subject to review and approval by the Director of Community Development prior to submittal of a building permit. [COA] [PLANNING]

PS-2. REQUIRED REVISIONS TO THE PLANS:

The project plans shall be revised to address the following items and shall be subject to review and approval by the Community Development Director.

- a) Side elevations facing the private street shall be modified to vary in treatment amongst the different buildings and may include architectural treatment to the entryway or additional materials.
- b) Speed humps shall be installed within the proposed private street that connects E. Arques Ave to E. Taylor Avenue.

PS-3. BMR STANDARD PERMIT CONDITION:

The developer shall complete a "BMR Standard Conditions Form" provided by the Housing Division and submit it with a site plan to the Housing Division for review before submitting building permit applications for the project. The site plan must describe the number, type, size and location of each unit on the site. This information will be used to complete the Developer Agreement. [SDR] [HOUSING/BMR Administrative Guidelines]

**BP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).**

BP-1. CONDITIONS OF APPROVAL:

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:

A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

BP-3. NOTICE OF CONDITIONS OF APPROVAL:

A Notice of Conditions of Approval shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Conditions of Approval shall be prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document number, if any, and be signed and notarized by each property owner of record.

- For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are the person(s) who have signed the Notice of Conditions of Approval. [COA] [PLANNING]
- BP-4. BLUEPRINT FOR A CLEAN BAY:  
The building permit plans shall include a “Blueprint for a Clean Bay” on one full sized sheet of the plans. [SDR] [PLANNING]
- BP-5. GREEN BUILDING:  
The building permit plans shall demonstrate the project is designed to achieve a minimum of 80 points (or points required at time of building permit submittal) on Build It Green’s GreenPoint Rated Checklist. The GreenPoint Rated Checklist shall be included on plans. [SDR] [PLANNING/BUILDING]
- BP-6. DEMOLITION OF EXISTING BUILDINGS:  
The existing buildings shall be demolished prior to final map recordation. [COA][PLANNING]
- BP-7. DEMOLITION/CONSTRUCTION/RECYCLING WASTE REPORT FORM:  
To mitigate the impacts of large projects on local waste disposal and recycling levels, demolition waste weights/volumes, construction weights/volumes, and recycling weights/volumes are to be reported to the City, per City’s “waste & recycling reporting form” (electronic copy available) or a similar chart approved by the City. As part of the project’s construction specifications, the developer shall track the type, quantity, and disposition of materials generated, and forward a complete report to the department of environmental services, solid waste division both periodically and at project completion. [COA][ENVIRONMENTAL SERVICES]
- BP-8. SOLID WASTE DISPOSAL PLAN:  
A detailed recycling and solid waste disposal plan shall be submitted for review and approval by the Director of Community Development prior to issuance of building permit. [COA] [PLANNING]
- BP-9. RECYCLING AND SOLID WASTE:  
The building permit plans shall include details for the installation of recycling and solid waste staging areas that are consistent with City’s current Design Guidelines for Solid Waste and Recycling Facilities. As shown on the vesting tentative map, Lot nos. 1 to 34 shall have adequate staging areas at their corresponding driveway aprons, while

Lot nos. 35 to 85 shall have adequate staging areas along “A” street to accommodate individual recycling and solid waste carts for each lot. Detailed design is subject to City’s review and approval during the building permit review process. [COA][ENVIRONMENTAL SERVICES/PLANNING]

BP-10. ROOF EQUIPMENT:

Roof vents, pipes and flues shall be combined and/or collected together on slopes of roof or behind parapets out of public view as per Title 19 of the Sunnyvale Municipal Code and shall be painted to match the roof. [COA] [PLANNING]

BP-11. FEES AND BONDS:

The following fees and bonds shall be paid in full prior to issuance of building permit.

- a) TRANSPORTATION IMPACT FEE - Pay Traffic Impact fee for the net new trips resulting from the proposed project, estimated at \$17,353.04, prior to issuance of a Building Permit. (SMC 3.50). [SDR] [PLANNING]
- b) PARK IN-LIEU - Pay Park In-lieu fees estimated at \$1,816,458.53, prior to approval of the Final Map or Parcel Map. (SMC 18.10). [SDR] [PLANNING]
- c) SENSE OF PLACE FEE - Pay Sense of Place fees for neighborhood pedestrian and streetscape improvements associated with industrial-to-residential transition. Sense of Place fees are estimated at \$93,219.50 (\$1,096.70, per dwelling unit) and shall be paid prior to issuance of a building permit. The final fee amount shall be calculated based on fee schedules in place at the time of payment. [PLANNING] [COA]

BP-12. BMR DEVELOPMENT AGREEMENT:

Before issuance of building permits for the project, the developer shall enter into a Development Agreement with the City to establish the method by which the development will comply with the applicable BMR requirements. The form of the Developer Agreement will be provided by the City, with tables regarding unit characteristics and timing of completion to be completed by the Developer, and is subject to the approval of the Community Development Director or his/her designee, consistent with the SMC. The completed Developer Agreement must be executed by both parties and recorded against the property, and will run with the land.

In the event that any Below Market Rate dwelling unit(s) or any portion thereof in the development is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units, which will remain subject to the terms of the Developer Agreement

and the BMR requirements. Grantee hereby covenants to cause the City of Sunnyvale to be named an additional insured party to all fire and casualty insurance policies pertaining to said assisted units. [SDR] [HOUSING/BMR Administrative Guidelines]

BP-13. MECHANICAL EQUIPMENT (EXTERIOR):

Detailed plans showing the locations of individual exterior mechanical equipment/air conditioning units shall be submitted and subject to review and approval by the Director of Community Development prior to issuance of building permits. Proposed locations shall have minimal visual and minimal noise impacts to neighbors and ensure adequate usable open space. Individual exterior mechanical equipment/air conditioning units shall be screened with architecture or landscaping features. [PLANNING] [COA]

BP-14. LANDSCAPE PLAN:

Landscape and irrigation plans shall be prepared by a certified professional, and shall comply with Sunnyvale Municipal Code Chapter 19.37 requirements. Landscape and irrigation plans are subject to review and approval by the Director of Community Development through the submittal of a Miscellaneous Plan Permit (MPP). The landscape plan shall include the following elements:

- a) All areas not required for parking, driveways or structures shall be landscaped.
- b) Provide trees at minimum 30 feet intervals along side and rear property lines, except where mature trees are located immediately adjoining on neighboring property.
- c) Deciduous trees shall be provided along southern and western exposures for passive solar heating purposes.
- d) For new tree selection, preference shall be given to California native species, and sizes selected shall be as large as appropriate for the proposed locations. At least ten percent (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) Any City street trees to be removed, replaced, or installed shall be included on the landscape plan.
- g) Provide a 15-foot wide landscaped buffer along the property's street frontages, except that the width may be reduced in limited locations as per the deviations granted and indicated on the approved project plans.
- h) Ground cover shall be planted so as to ensure full coverage eighteen months after installation.

- i) Decorative paving as required by the Director of Community Development to distinguish entry driveways, building entries, pedestrian paths and common areas.
  - j) Provide a fifteen-foot deep band of decorative paving for the width of the private drive(s) immediately behind the public sidewalk.
  - k) Provide details for common area furnishing including tables, benches, grills, trash receptacles, etc. Common area furnishings shall be secured to the ground to prevent them from being moved (excepting recycling and solid waste containers located within approved enclosures).
  - l) Design of all proposed fencing and walls shall be included in the landscape plans and shall comply with 19.37.080.
  - m) Patio and landscape walls shall not be higher than four feet. [COA] [PLANNING]
- BP-15. LANDSCAPE MAINTENANCE PLAN:  
Prepare a landscape maintenance plan subject to review and approval by the Director of Community Development prior to issuance of building permit. [COA] [PLANNING]
- BP-16. CITY STREET TREES:  
The Applicant shall install required street trees of Southern Magnolia on E. Arques Ave. and Chinese Pistache on E. Taylor Ave. Street trees and frontage landscaping shall be included in the detailed landscape and irrigation plan subject to review and approval by the Director of Public Works. New street trees shall be 24-inch box size or 15 gallon size or larger and spaced a minimum of 35 feet apart. [SDR] [PLANNING/PUBLIC WORKS]
- BP-17. STORMWATER MANAGEMENT CALCULATIONS:  
Submit two copies of the City of Sunnyvale Impervious Surface Calculation worksheet prior to issuance of a Building Permit. [COA] [PLANNING]
- BP-18. STORMWATER MANAGEMENT PLAN:  
Submit two copies of a Stormwater Management Plan subject to review and approval by Director of Community Development and third party certification, pursuant to SMC 12.60, prior to issuance of building permit. [COA] [PLANNING/PUBLIC WORKS]
- BP-19. STORM WATER MANAGEMENT PLAN THIRD PARTY CERTIFICATION:  
Third party certification of the Storm Water Management Plan is required per the following guidance: City of Sunnyvale – Storm Water Quality BMP Applicant Guidance Manual for New and Redevelopment Projects - Addendum: Section 3.1.2 Certification of Design Criteria

Third-Party Certification of Storm Water Management Plan Requirements. The third party certification shall be provided prior to building permit issuance. [SDR] [PLANNING/PUBLIC WORKS]

BP-20. BEST MANAGEMENT PRACTICES - STORMWATER:

The project shall comply with the following source control measures as outlined in the BMP Guidance Manual and SMC 12.60.220. Best management practices shall be identified on the building permit set of plans and shall be subject to review and approval by the Director of Public Works:

- a) Storm drain stenciling. The stencil is available from the City's Environmental Division Public Outreach Program, which may be reached by calling (408) 730-7738.
- b) Landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping.
- c) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:
  - i) Swimming pool water, spa/hot tub, water feature and fountain discharges if discharge to onsite vegetated areas is not a feasible option.
  - ii) Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option. [SDR] [PLANNING]

BP-22. SANITARY SEWER BACKFLOW VALVE:

Install sanitary sewer service backflow valve behind the street right-of-way, as required by Building Division, when the upstream manhole finish grade elevation is higher than the finished floor elevation where the lowest fixture units is located, prior to building permit issuance. [SDR] [PLANNING]

BP-23. EXTERIOR LIGHTING PLAN:

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

- a) Sodium vapor (or illumination with an equivalent energy savings).
- b) Pole heights to be uniform and compatible with the areas, including the adjacent residential areas. Light standards shall not exceed 8 feet in height.
- c) Provide photocells for on/off control of all security and area lights.

- d) All exterior security lights shall be equipped with vandal resistant covers.
- e) Wall packs shall not extend above the roof of the building.
- f) Lights shall have shields to prevent glare onto adjacent residential properties. [COA] [PLANNING]

BP-24. PHOTOMETRIC PLAN:

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. [COA] [PLANNING]

BP-25. LIGHTING SPACING:

Installation of lights at a minimum of 50 feet intervals along all private streets. Final light spacing shall be subject to approval by the Director of Community Development with review of the exterior lighting plan and photometric plan. [COA] [PLANNING]

BP-26. PARKING MANAGEMENT PLAN (RESIDENTIAL MULTI-FAMILY):

A Parking Management Plan is subject to review and approval by the Director of Community Development prior to issuance of a building permit. The Parking Management Plan shall include the following:

- a) All uncovered spaces shall be reserved as guest and unassigned residential parking spaces and shall remain unassigned.
- b) A clear definition of “guest” as proposed by the property manager/homeowner’s association and subject to review and approval by the Director of Community Development.
- c) The property manager/homeowner’s association may specify that 25% to 75% of unassigned spaces be reserved for guest use.
- d) Clearly indicate that the property manager/homeowner’s association shall not rent unassigned spaces, except that a nominal fee may be charged for parking management.
- e) Residents shall use their assigned parking spaces prior to using unassigned parking spaces.
- f) Prohibit tenants from parking RV’s, trailers, or boats in assigned spaces.
- f) Notify potential residents the number of parking spaces provided for each unit on-site per the approved plans. [PLANNING] [COA]

BP-27. COMPACT SPACES:

Specify compact parking spaces on the building permit plans. All such areas shall be clearly marked prior to occupancy, in accordance with Title 19 of the Sunnyvale Municipal Code. [SDR] [PLANNING]

BP-28. BICYCLE SPACES:

Provide a minimum of 22 Class II bicycle parking spaces or as approved by the Director of Community Development. Bicycle parking shall be dispersed in several common areas throughout the site and shown on the plans submitted for building permits. Select high-quality decorative designs for bicycle racks. [COA] [PLANNING]

BP-29. FIRE PROTECTION:

Plans shall demonstrate compliance with the fire protection requirements in place at the time of building permit submittal as provided in Sunnyvale Municipal Code chapters 16.52, 16.53 and 16.54; California Fire Code; and Title 19 California Code of Regulations. The following details shall be included:

- a) The water supply for fire protection and firefighting shall be approved by the Department of Public Safety (508 CFC).
- b) A fully automatic fire sprinkler system is required. The fire sprinkler system shall be in accordance with NFPA 13, and CFC (16.52.270 SMC & Section 903 CFC).
- c) A fire alarm system is required for buildings meeting the requirements under Section 907.2.9 CFC.
- d) Install approved smoke detectors in accordance with the Sunnyvale Municipal Code (SMC 16.52.280).
- e) Fire hydrants are required every 300 feet. On-site fire hydrants are required along the fire access road. Building permit plans shall provide locations of existing City fire hydrants and any proposed on-site hydrants (508 CFC).
- f) Provide the required number of approved fire extinguishers (minimum size of 2A10BC) (CCR Title 19: 568).
- g) Fire access roads are required per the Sunnyvale Municipal Code and the published requirements for Fire Department Vehicle Access. Building permit plans shall demonstrate compliance with the approved Alternate Means agreement for fire access roads, or as approved by the Fire Marshall.

BP-30. FIRE PROTECTION PLAN:

Provide a written construction Fire Protection Plan (Section 1408 CFC) (Refer to Unidocs.org, Fire Prevention documents). [COA] [PUBLIC SAFETY-FIRE PREVENTION]

BP-31. NOISE REDUCTION:

Final construction drawings shall incorporate all noise mitigation measures as set forth under "Mitigation Measures" in the approved environmental document and all plans shall be wet-stamped and signed by the consultant. [COA] [PLANNING] **Mitigation Measure**

WHAT:

- 1) Sound-rated windows and doors will be incorporated into residences along North Fair Oaks Avenue and East Arques Avenue as noted in Exhibit 2 (attached to this study), to reduce interior noise levels to the DNL 45 dB criterion, due to exterior sources. Where insulation ratings are not indicated, STC 28 windows and doors are required. The final design and sound insulation ratings must be reviewed by an acoustical consultant prior to construction.
- 2) Consistent with the California Building Code, residences will include ventilation or air conditioning systems to provide habitable interior environments where windows must be closed to meet interior noise criterion. This applies to townhouse buildings 1, 2, 3, 4, 5, 6, 9, 10, 11, and 19.
- 3) Outdoor condensing units and other mechanical equipment must incorporate mitigation measures to reduce noise to the City's Municipal Code limits at the adjacent property lines. An acoustical consultant should review manufacture's noise level data for the proposed units during the design phase to determine if noise reduction measures are needed. These measures could include a combination of selecting quiet units, maintaining distances to property lines, physical barriers and/or enclosures.

WHEN: These mitigations shall be converted into conditions of approval for this Special Development Permit prior to its final approval by the City Council. The conditions will become valid when the SDP is approved and prior to building permit issuance. Prior to submittal of a building permit, the applicant will be required to submit a noise analysis showing that residential unit windows and wall construction shall be designed to limit interior noise levels to a maximum of 45db when all windows and doors are closed. A second study providing evidence of compliance shall be submitted prior to occupancy of units. The compliance report shall comply with the provisions of the current building codes.

WHO: The property owner will be solely responsible for implementation and maintenance of these mitigation measures.

HOW: The conditions of approval will require these mitigation measures to be incorporated into the construction plans. [COA] [PLANNING] **Mitigation Measure**

BP-32. HISTORIC AND PREHISTORIC RESOURCES:

WHAT: If archaeological resources are encountered during construction, work should be temporarily halted in the vicinity of the discovered materials and workers should avoid altering the materials and their context until a qualified professional archaeologist has evaluated the situation and provided appropriate recommendations. Project personnel should not collect cultural resources. Native American resources include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic-period resources include stone or adobe foundations or walls; structures and remains with square nails; and refuse deposits or bottle dumps, often located in old wells or privies. Provide documentation that construction staff has been informed of this requirement.

WHEN: These mitigations shall be converted into conditions of approval for this Special Development Permit prior to its final approval by the City Council. The conditions will become valid when the SDP is approved. Conditions will be applicable during the construction of the project.

WHO: The property owner and contractor will be responsible for implementation and maintenance of these mitigation measures.

HOW: The conditions of approval will require these mitigation measures to be incorporated into the construction plans.

BP-33. AIR QUALITY:

The project will require grading of the site, including demolition and removal of the existing hardscape. This may introduce temporary and short-term dust into the air, and therefore temporarily affect air quality. Nearby residents could be affected by the change in air quality if mitigation is not implemented. Through the City's implementation of the municipal code's construction regulations and the bay area air quality management district (BAAQMD) regulations, this impact will be lessened to a less than significant level during construction. This could be accomplished through the following mitigation measures.

WHAT:

- 1) Include basic measures to control dust and exhaust during construction. During any construction period ground disturbance, implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would

reduce the air quality impacts associated with grading and new construction to a less than significant level. The contractor shall implement the following BMPs that are required of all projects:

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day;
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered;
  - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited;
  - d. All vehicle speeds on unpaved roads shall be limited to 15 mph;
  - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
  - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes. Clear signage shall be provided for construction workers at all access points;
  - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation; and
  - h. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- 2) Selection of equipment during demolition, grading and trenching construction phases to minimize emissions. Such equipment selection would include the following:
- a. All diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent;
  - b. Minimize the number of hours that equipment will operate, including the use of idling restrictions.
- 3) Permits must be obtained from the City of Sunnyvale and Bay Area Air Quality Management (BAAQMD).

WHEN: This mitigation shall be converted into conditions of approval for this Special Development Permit (SDP) prior to its final approval by the City Council. The conditions will become valid when the SDP is approved and prior to building permit issuance. These permits are required prior to any demolition or construction on site.

WHO: The property owner will be solely responsible for implementation and maintenance of these mitigation measures.

HOW: The conditions of approval will require these mitigation measures to be incorporated into the construction plans.

BP-34. HAZARDS AND HAZARDOUS MATERIALS:

A Phase I and II and II Environmental Site Assessment (ESA) was completed by ENGEO Incorporated in May 2013. The study is available for review at the City of Sunnyvale's Community Development Department, Monday through Friday between 8:00 a.m. and 5:00 p.m.

Based on soil samples of the site contained in the Phase II study, the consultants found concentrations of Total Petroleum Hydrocarbons (TPH) and Volatile Organic Compounds (VOCs) in groundwater samples that exceed applicable drinking water screening levels. Elevated benzene and tetrachloroethene (PCE) concentrations were identified with concentration exceeding applicable screening levels.

The detected concentrations are sufficient to necessitate additional action, which could include additional soil gas sampling, risk evaluations and potential engineering/institutional controls to allow for residential development. Such requirements will be enforced by the overseeing regulatory agency, for example Cal-EPA. In addition to a vapor mitigation system, Cal-EPA could also require supplemental sampling, groundwater monitoring, or a formal risk assessment. Consistent with other recent projects in the area, the applicant will be required to provide a Removal Action Plan (RAP) in coordination with the Regional Water Quality Control Board (RWQCB). The RAP will recommend clean-up of the soil to residential levels, which would include removal of some soil in the project area. Additional sampling would occur to verify that the soil have been cleaned up to residential standards. The groundwater contamination (vapors) will be managed with vapor control barriers under the new residential buildings and monitored with new ground water monitoring wells and treatment measures approved by the RWQCB. These are measures that are acceptable methods of clean up for the industry. The following mitigation measures will reduce the contamination concerns to a less than significant level.

WHAT:

- 1) All demolition and disposal of asbestos will be required to be conducted in accordance with the procedures specified in BAAQMD's Regulation 11 Hazardous Pollutants, Rule 2 Asbestos Demolition, Renovation and Manufacturing.
- 2) Install vapor barriers to mitigate risks potentially posed by vapor intrusion or other alternative approved by the RWQCB.
- 3) Provide a Removal Action Plan (RAP) in coordination with the Regional Water Quality Control Board (RWQCB). The RAP will recommend clean-up of the soil to residential levels, which would include removal of some soil in the project area. Additional sampling would occur to verify that the soil have been cleaned up to residential standards.
- 4) Comply with requirements as set forth by the lead regulatory agency overseeing the investigation and remediation of environmental pollution on the property. Following the installation of the vapor barriers, copies of the certifications from the contractor performing the vapor barrier installation must be provided to the City of Sunnyvale and County of Santa Clara Department of Environmental Health.
- 5) An environmental professional be onsite during demolition and grading activities in the event unforeseen environmental impacts are exposed.
- 6) If any underground storage tanks or soil impacts are encountered during site development activities, perform sampling and analysis of the potential impacts and, as necessary, excavating and removing impacted soil for off-site disposal, in accordance with all applicable laws.

WHEN: These mitigations shall be converted into conditions of approval for the Special Development Permit (SDP) prior to its final approval by the City Council. The conditions will become valid when the SDP is approved. Conditions will be applicable during the construction of the project.

WHO: The project contractor/applicant will be solely responsible for implementation and maintenance of these mitigation measures.

HOW: The conditions of approval will require these mitigation measures to be incorporated into the construction plans.

**EP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED AS PART OF AN ENCROACHMENT PERMIT APPLICATION.**

- EP-1. COMPLETE OFF-SITE IMPROVEMENT PLAN SET:  
A complete plan check set applicable to the project, including street improvement plans, streetlight plans, streetscape plans, traffic signing and striping plans, traffic signal plans, traffic control plans, shall be submitted as part of the first off-site improvement plans, including engineering cost estimates. Joint trench plans may be submitted at a later date. No partial sets are allowed unless otherwise approved by the Director of Public Works. [COA][PUBLIC WORKS]
- EP-2. UPGRADE OF EXISTING PUBLIC IMPROVEMENTS:  
As part of the off-site improvement plan review and approval, any existing public improvements to be re-used by the project, which are not in accordance with current City standards and are not specifically identified in the herein project conditions (such as backflow preventer and sign post, etc.), shall be upgraded to current City standards and as required by the Director of Public Works [COA] [PUBLIC WORKS]
- EP-3. FAIR OAKS JUNCTION SENSE OF PLACE PLAN:  
This project is in the Fair Oaks Junction Sense of Place Plan area; therefore, the developer shall comply with any applicable design requirements as identified in the plan or as amended and approved by the City including but not limited to installation of a 10'-wide bicycle and pedestrian path and upgrade of existing bus stop (with minimum 10'x55' PCC bus pad and bench). A bus shelter shall be constructed if determined to be feasible by the Director of Public Works. Design details of those improvements including neighborhood monument signage and bike racks shall be submitted to the City for review and approval during the plan check stage. [COA] [PUBLIC WORKS]
- EP-4. UTILITY CONNECTION:  
This project requires connection to all City utilities or private utilities operating under a City or State franchise which provide adequate levels of service. [COA] [PUBLIC WORKS]
- EP-5. UTILITY CONNECTION TO THE MAIN:  
All sanitary sewer laterals connecting to the existing main line shall be with a new sanitary sewer manhole, except where the point of the connection is within close vicinity of an existing down-stream manhole where a "Y" connection is permitted as determined by the Director of Public Works. All storm drain lateral connecting to the main shall be with a new storm drain manhole, except where a pipe to pipe connection is permitted if the mainline is 36" or larger, or a junction structure is permitted where the point of connection is within

- close vicinity of an existing down-stream manhole. [SDR] [PUBLIC WORKS]
- EP-6. **EXISTING UTILITY ABANDONMENT:**  
Developer is responsible for research on all existing utility lines to ensure that there are no conflicts with the project. All existing utility lines (public or private) and/or their appurtenances not serving the project and/or have conflicts with the project, shall be capped, abandoned, removed, relocated and/or disposed to the satisfaction of the City. Existing public facilities within the street right-of-way shall be abandoned per City's Abandonment Notes, including abandonment by other utility owners. [COA] [PUBLIC WORKS]
- EP-7. **MODIFICATIONS TO EXISTING PUBLIC UTILITIES:**  
Developer is required to pay for all changes or modifications to existing City utilities, streets and other public utilities within or adjacent to the project site, including but not limited to utility facilities/conduits/vaults relocation due to grade change in the sidewalk area, caused by the development. [COA] [PUBLIC WORKS]
- EP-8. **DRY UTILITIES:**  
Submit dry utility plans and/or joint trench plans (PG&E, telephone, cable TV, fiber optic, etc.) to the Public Works Department for review and approval prior to issuance of any permits for utility work within public right-of-way or public utility easements. Separate encroachment permits shall be required for various dry utility construction. [SDR] [PUBLIC WORKS]
- EP-9. **WET UTILITIES:**  
All wet utilities (water, sanitary sewer, storm drain) on-site shall be privately owned and maintained. [COA] [PUBLIC WORKS]
- EP-10. **RE-USE OF EXISTING CITY UTILITY SERVICE LINES:**  
The re-use of any existing City utility service lines and appurtenances is subject to City's review and approval. Developer's contractor shall expose the existing facilities during construction for City's evaluation or provide video footage of the existing pipe condition. Developer's contractor shall replace any deficient facilities as deemed necessary by Public Works Department. [COA] [PUBLIC WORKS]
- EP-11. **PUBLIC FIRE HYDRANTS:**  
Remove and replace the existing fire hydrant barrel(s) along entire project frontage with current City standard Clow 865 when connected to the existing 10" water main, or Clow 75 when connected to the existing 6" water main. New fire hydrant location shall be per current City standard detail 2B-2. Public fire hydrant shall be maintained free

and clear of all vines, shrubs, bushes, ivy, etc. for a minimum of three feet. [COA] [PUBLIC WORKS/PUBLIC SAFETY-FIRE PROTECTION]

EP-12. DUAL CONNECTION WATER SERVICE SYSTEM

Provide two points of water service taps to the existing water mains (one on Arques Avenue and one on Taylor Avenue) with two separate radio-read master water meters and double check detector assemblies. Water service line design shall take into consideration of on-site fire protection and approved by City's Fire Protection Engineer. [COA][PUBLIC WORKS]

EP-13. WATER METER:

Install new domestic master water meter(s) in the public right-of-way for each point of connection to the water main. For water meter sizes three (3) inches or larger, provide meter sizing calculations to Public Works Department for approval of meter size, as part of the off-site improvement plan submittal. Install new backflow prevention devices on the discharge side of the meter on private property. Install backflow preventor enclosures where applicable. [SDR] [PUBLIC WORKS]

EP-14. IRRIGATION SERVICE LINE AND BACKFLOW PREVENTORS:

Install a separate irrigation water service line (separate from the domestic water service line) with the water meter placed in the public right-of-way and the backflow prevention device placed on private property. Upgrade any existing water meters to 1" minimum radio-read water meters.

All landscape and irrigation systems, located in the public park strip areas shall be connected to the water system metered to the property owner. Install new backflow prevention devices on the discharge side of meter. Install backflow preventer enclosure per City standard details. [SDR] [PUBLIC WORKS]

EP-15. SANITARY SEWER ANALYSIS:

Submit a focused sanitary sewer analysis identifying the overall project impact to the City's existing sanitary sewer main(s). This includes, but is not limited to, the following:

- a) A detailed estimate of water consumption in gallons per day or estimate of sanitary sewer discharge in gallons per day; and
- b) Any incremental impact that will result from the new project in comparison to the existing sewer capacity of the immediate downstream mainline as needed, and allocation of wastewater discharge from the project site to each of the proposed laterals. Any deficiencies in the existing system in the immediate vicinity of the project will need to be addressed and resolved at the expense of the developer as part of the off-site improvement plans. [COA] [PUBLIC WORKS]

- EP-16. SEWER CLEANOUT:  
Install new sewer cleanouts (or manhole for larger projects) at the property lines for all existing and proposed sanitary sewer laterals to be used for the project. [SDR] [PUBLIC WORKS]
- EP-17. SANITARY SEWER AND STORM DRAIN TRIBUTARY PATTERN:  
This project is required to follow the existing sanitary sewer and storm drain tributary pattern. Any deviations would require additional analysis and be subject to approval by the Director of Public Works as part of the off-site improvement plan review process. This project shall not cause any negative impact on the drainage pattern for adjacent properties. [COA] [PUBLIC WORKS]
- EP-18. STORM DRAIN DESIGN  
The proposed storm drain pipe in the public right-of-way as shown on the vesting tentative map is subject to review and approval by the Department of Public Works during the plan check review stage. Provide storm drain hydrology and hydraulic calculations to justify the size of the storm drain design. Provide calculations for 25-year storm event and identify flow depth in the main. Provide separate calculations for the 50-year storm event and analyze the impact within the street curbs. [COA] [PUBLIC WORKS]
- EP-19. DRAINAGE AND EROSION CONTROL  
Adequate drainage/erosion control shall be provided at all times during the development per the Stormwater Management Plan (SWMP), Stormwater Pollution Prevention Plan (SWPPP), and BMP's. [COA] [PUBLIC WORKS]
- EP-20. UTILITY METER/VAULT:  
No existing or new utility meters or vaults shall be located within the new driveway approach areas. All existing or new utility vaults serving the project site shall be located on-site and not within the public utility easement, if any. [COA] [PUBLIC WORKS]
- EP-21. DECORATIVE STREETLIGHTS:  
Provide photometric study with new City downtown standard twin-head decorative street lights along Arques Avenue and Fair Oaks Avenue. Use LED wattage equivalent of 200 watt HPS bulbs and begin with lights spaced at 20-30 feet apart and adjust the spacing to meet the following illuminance requirements: average illuminance equal to or greater than 1.3 fc and the uniformity ratio (avg/min) less than or equal to 3.0.
- Include Taylor Avenue in the photometric study but with new City downtown standard single-head decorative street lights. Use LED

wattage equivalent to 70 watt HPS bulbs and begin with lights spaced at 20-30 feet apart and adjust to meet the following illuminance requirements: average illuminance equal to or greater than 0.7 fc and the uniformity ratio (avg/min) less than or equal to 6.0.

Replace all existing streetlight conduits, wires and pull boxes with new ones along the entire project frontage per City's current standards.

Submit separate streetlight plans concurrently with the off-site improvement plan review to include installation of new conduits, existing and/or new locations of power source connection and new service pedestal, conductors, pull boxes, voltage drop and load calculations, and any other streetlight equipment as required to be installed by Developer per latest City standard details and specifications and National Electrical Code. Obtain PG&E's approval for new service pedestal, if required, prior to Encroachment Permit issuance by Public Works Department. [SDR] [PUBLIC WORKS]

EP-22. UNDERGROUNDING OF OVERHEAD UTILITIES:

Developer shall complete the undergrounding of existing overhead utilities along the Taylor Avenue project frontage in accordance with the Sunnyvale Municipal Code Sections 19.38.090 to 19.38.100, prior to first building occupancy. [COA] [PLANNING/PUBLIC WORKS]

EP-23. DRIVEWAY APPROACHES:

Remove existing driveway approaches and install new driveway approaches along the project frontage to comply with Americans with Disabilities Act (ADA) requirements and per City standard details and specifications. All unused existing driveway approaches shall be replaced with new curb, gutter and sidewalk. [COA] [PUBLIC WORKS]

EP-24. CURB RAMPS:

Remove the existing curb ramps at the northeast corner of Arques/Fair Oaks and install new City standard curb ramps. Install a new City standard curb ramp at the southeast corner of Fair Oaks/Taylor. [COA] [PUBLIC WORKS]

EP-25. STREETSCAPE IMPROVEMENTS:

Remove existing concrete curb and 2' gutter and install new concrete curb and 1' gutter per current City standards along the Arques and Fair Oaks project frontage. Provide gutter transition to conform to existing 2' gutter at project limits. Install a 5-foot wide parkstrip and 5-foot wide detached sidewalk along the Arques Avenue project frontage and a 10-foot wide sidewalk with 4-foot by 5-foot tree wells along the Fair Oaks Avenue project frontage.

- Remove existing concrete roll curb and install new concrete curb and 2' gutter per current City standards along the Taylor Avenue frontage. Conform to existing gutters at project limits. Install a 4-foot wide parkstrip and 5-foot wide detached sidewalk along the Taylor Avenue project frontage.
- Remove the existing curb return at the northeast corner of Arques/Fair Oaks and install a new curb return with a tighter radii (r=30') as identified in the Fair Oaks Junction Sense of Place Plan. Remove unused utility poles. [COA] [PUBLIC WORKS]
- EP-26. STREET PAVEMENT:  
Along the entire project frontages, install Type II slurry seal up to the street centerline on Arques Avenue and Fair Oaks Avenue and across the entire street on Taylor Avenue, unless otherwise approved by the Director of Public Works. [SDR] [PUBLIC WORKS]
- EP-27. SIGNING AND STRIPING PLANS:  
Submit a signing and striping plan in accordance with the latest edition of the CA MUTCD to City for review and approval by the Public Works Department. Include installing 'No Parking' signs along the Fair Oaks frontage. [SDR] [PUBLIC WORKS]
- EP-28. TRAFFIC CONTROL PLAN:  
Submit a traffic control plan with the off-site improvement plans for review and approval. All construction related materials, equipment, and construction workers parking need to be stored on-site and the public streets need to be kept free and clear of construction debris. [COA] [PUBLIC WORKS]
- EP-29. CITY STREET TREES:  
The developer shall install required street trees along the project frontage as follows: Arques Avenue: Magnolia grandiflora – Southern Magnolia; Fair Oaks Avenue and Taylor Avenue: Pistacia chinensis – Chinese Pistache. Street trees and frontage landscaping shall be included in the detailed landscape and irrigation plan subject to review and approval by the Department of Public Works prior to issuance of encroachment permit. New street trees shall be 24-inch box size or 15 gallon size. The City tree spacing should be approximately 35 feet apart. A continuous root barrier shall be installed along the parkstrip area. No trees are to be planted within 10' of a sanitary sewer lateral. [SDR] [PUBLIC WORKS]
- EP-30. DAMAGE TO EXISTING PUBLIC IMPROVEMENTS:  
Developer shall be responsible to rectify any damage to the existing public improvements fronting and adjacent to the project site as a

result of project construction to City's satisfaction by the Director of Public Works. [COA] [PUBLIC WORKS]

EP-31. APPROVAL FROM OTHER AGENCIES:

This project requires an approval letter from the Santa Clara Valley Water District for storm drain connection to the existing East Channel. [COA] [PUBLIC WORKS]

EP-32. RECORD DRAWINGS:

Record drawings (including street, sewer, water, storm drain and off-site landscaping plans) shall be submitted to the City prior to encroachment permit sign-off. [COA] [PUBLIC WORKS]

**TM: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO THE APPROVAL OF THE FINAL MAP OR PARCEL MAP.**

TM-1. CONDITIONS, COVENANTS AND RESTRICTIONS (CC&RS) (DRAFT REVIEW):

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. Four (4) sets of the CC&Rs including all information required below shall be submitted to the Engineering Division of the Public Works Department for routing. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:

- a) Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- b) The homeowners 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.
- c) The developer shall maintain all private utilities and landscaping for a period of three (3) 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.
- d) Homeowners are prohibited from modifying drainage facilities and/or flow patterns of their lots without first obtaining permission from the City.
- e) The Standard Development Requirements and Conditions of Approval included as part of the approved Planning Application, Permit #2013-7645, and associated map shall be incorporated into the CC&Rs as an exhibit or attachment. The included map shall clearly indicate all public/private easements as disclosure

for property owners. The CC&Rs shall include a list of all attachments and/or exhibits.

- e) The CC&Rs shall contain language for Best Management Practices “Agreement to Maintain” pursuant to Sunnyvale Municipal Code 12.60.200.
- f) The CC&Rs shall contain the following provisions:
  - i) The owners association shall maintain parkstrip landscaping in perpetuity along the public street fronting the project site.
  - ii) Property owners are prohibited from modifying drainage facilities and/or flow patterns unless reviewed and approval granted from the Public Works Department.
  - iii) The owners association shall maintain in perpetuity the stormwater management areas located on individual lots along the private street and along the project’s street frontage.
- g) The CC&Rs shall contain the following language:
  - i) “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.
  - ii) 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.
  - iii) 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.

- iv) 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.
  - v) 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.
  - vi) 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."
- h) The CC&Rs shall include language stating that storage of materials on the front balconies is prohibited. Outdoor plantings and patio furniture must be kept in a neat and clean manner and this shall be enforced by the HOA. [COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]

TM-2. FINAL MAP COMPLIANCE WITH VESTING TENTATIVE MAP: The final map shall be substantially the same as the vesting tentative map. Any alteration of the vesting tentative map after the vesting tentative map is approved is subject to additional approval by the City and may require a public hearing. [COA][PLANNING/PUBLIC WORKS]

TM-3. TITLE 18 AND SUBDIVISION MAP ACT:  
The submittal, approval and recordation of the tract map shall be in accordance with the provisions of the California Subdivision Map Act and Sunnyvale Municipal Code Title 18 subdivision requirements. [COA] [PUBLIC WORKS]

TM-4. RESERVATION/ABANDONMENT OF EASEMENTS:  
Reservation of new and/or abandonment of existing public/private utility easement(s), ingress/egress easement(s) necessary for the project site shall be delineated on the map or recorded concurrently

- with the map with a separate instrument, unless otherwise approved by the Director of Public Works. Quitclaim deed is required for abandonment of private easements prior to map recordation. All easements shall be kept open and free from buildings and structures of any kind except those appurtenances associated with the defined easements. [COA] [PUBLIC WORKS]
- TM-5. UTILITY COMPANY APPROVAL:  
Obtain approval letters from various utility companies for the tract map in regards to any existing or new easements associated with the project. [COA] [PUBLIC WORKS]
- TM-6. EMERGENCY VEHICLE ACCESS EASEMENT:  
Developer shall dedicate a minimum 26'-wide emergency vehicle ingress-egress easement over the surface parking areas, excepting areas for parking stalls, or as approved by the Fire Marshall. [COA][PUBLIC SAFETY/PUBLIC WORKS]
- TM-7. STREET DEDICATION:  
Developer shall have adequate street dedications along the project frontage in the form of easement for public use purpose on the final map. Those dedications shall accommodate required streetscape improvements. [COA][PUBLIC WORKS]
- TM-8. BICYCLE AND PEDESTRIAN ACCESS EASEMENT:  
Developer shall dedicate a 10' bicycle and pedestrian access easement across the property for public use purpose as identified in the Fair Oaks Junction Sense of Place Plan. The developer is responsible for perpetual maintenance of improvements within the easement in accordance with the provisions stipulated in a recorded Maintenance Agreement. All easements shall be kept open and free from buildings and structures of any kind. [COA] [PUBLIC WORKS]
- TM-9. PUBLIC WORKS DEVELOPMENT FEES:  
Developer shall pay all applicable Public Works development fees associated with the project, including but not limited to, utility frontage and/or connection fees, off-site improvement plan check and inspection fees, prior to map recordation or any permit issuance, whichever occurs first. The incremental sewer connection fee is estimated at \$150,061.30 and the incremental water connection fee is estimated at \$32,569.19 based upon available project data and the fiscal year 2013-14 rate. Exact fee amount shall be determined at based upon the fee rate at the time of fee payment. [COA] [PUBLIC WORKS]

TM-10. SUBDIVISION AGREEMENT AND IMPROVEMENT SECURITIES:  
Developer shall execute a Subdivision Agreement and provide improvement securities and/or cash deposit(s) for all proposed public improvements prior to final map recordation or any permit issuance, whichever occurs first. [COA] [PUBLIC WORKS]

TM-11. OFF-SITE IMPROVEMENTS ESTIMATE:  
Provide an engineer's estimate for all off-site public improvements for the entire project. [COA] [PUBLIC WORKS]

**DC: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.**

DC-1. FIRE ACCESS:  
Prior to any combustible construction or materials on-site, provide fire access drives and operational on-site fire protection systems if applicable (Chapter 14 CFC). [SDR] [PUBLIC SAFETY-FIRE PREVENTION]

DC-2. BLUEPRINT FOR A CLEAN BAY:  
The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]

**PF: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS AND/OR SHALL BE MET PRIOR TO RELEASE OF UTILITIES OR ISSUANCE OF A CERTIFICATE OF OCCUPANCY.**

PF-1. LANDSCAPING AND IRRIGATION:  
All landscaping and irrigation as contained in the approved building permit plan shall be installed prior to occupancy. [COA] [PLANNING]

PF-2. PARKING LOT STRIPING:  
All parking lot striping, carpool and compact spaces shall be striped as per the approved plans and Public Works standards. [COA] (PLANNING/ENGINEERING)

PF-3. COMPLETION OF PUBLIC IMPROVEMENTS:  
Developer shall complete all required public improvements in accordance with City approved plans, prior to any building occupancy. [COA] [PUBLIC WORKS]

PF-4. CONDITIONS, COVENANTS AND RESTRICTIONS (CC&RS) (RECORDATION):

The Developer/Owner shall submit a copy of the recorded CC&Rs and a letter from the Developer/Owner either indicating that the recorded CC&Rs are in conformance with the approved draft CC&Rs or summary of changes shall be provided to the Director of Community Development prior to release if utilities or certificate of occupancy. [COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]

PF-5. HOA ESTABLISHMENT:

The developer shall submit to the Planning Division the names, addresses and telephone numbers of the officers of the homeowners association, architectural review committee or similar committee, at the time the organization is granted autonomy. Until such information is supplied, the developer shall remain a Responsible Person for purposes of maintaining all common property. The chairperson, secretary or principal officer of any committee or association shall notify the City of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective. [COA] [PLANNING]

PF-6. NOISE REDUCTION VERIFICATION:

Acoustical tests shall demonstrate that an interior Ldn scale (day and night average noise level) of 45 dBA is met on the finished units. Such test results shall be furnished to the Director of Community Development prior to occupancy of the units. [COA] [PLANNING]  
*Mitigation Measure*

PF-7. MITIGATION MEASURES:

Documentation indicating that the following mitigation measures have been satisfied shall be provided to the Director of Community Development prior to release of occupancy or utilities:

MM 1 – Noise: Documentation that a 65 Ldl has been achieved for the specified areas of the project (Acoustical Engineer).

Refer to the building permit plans for the Mitigation Monitoring Plan or Negative Declaration, attached to the approved building permit plans. [COA] [PLANNING] *Mitigation Measure*

PF-8. BMR COMPLETION 60 ADVANCE DAY NOTICE:

The Developer/Owner must provide a written “Notice of Intent to Sell” to the Affordable Housing Manager for each BMR unit(s) to be provided in the development sixty days (60) prior to the request for a certificate of occupancy or receipt of a DRE report for the unit, whichever is later. Upon receipt of this Notice, the Housing Division

will inform the developer of the current maximum BMR sales price applicable to the unit, based on number of bedrooms, as published in the Administrative Procedures and updated annually. The developer must also request and pass a site inspection by the Affordable Housing Manager to verify that the BMR units have been completed in compliance with the BMR Development Agreement. [COA] [HOUSING]

PF-9. BMR RENTAL UNITS DEED RECORDATION:

The Developer/Owner or its successor shall endorse a Deed of Trust to secure the BMR restrictions to be recorded on the property prior to issuance of a Certificate of Occupancy by the City of Sunnyvale Building Division. The Deed of Trust and a preliminary title report shall be submitted to the Housing Officer for execution, approval of the City Attorney and recordation with the Santa Clara County Recorders Office. Proof of such recordation shall be deemed a condition precedent to occupancy of any residential unit within a development. [COA] [HOUSING]

**AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.**

AT-1. RECYCLING AND SOLID WASTE:

All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

AT-2. SOLID WASTE RECYCLING MANAGEMENT:

Waste and recycling services for residential uses shall be maintained under a master account held by the applicant, owner or landlord. The account holder will be responsible for ensuring adequate services and that all locations, private sidewalks and streets are kept free of litter and stains. Requirements shall be specified in the approved documents and be submitted for approval by the City. [COA] [PUBLIC WORKS]

AT-3. EXTERIOR EQUIPMENT:

All unenclosed materials, equipment and/or supplies of any kind shall be maintained within approved enclosure area. Any stacked or stored items shall not exceed the height of the enclosure. Individual air conditioning units shall be screened with architecture or landscaping features. [COA] [PLANNING]

AT-4. LANDSCAPE MAINTENANCE:

All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition. 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. [COA] [PLANNING]
- AT-5. STORMWATER MEASURES IN USABLE OPEN SPACES:  
Any bioretention basins which are located within usable open space areas shall be maintained to ensure the stormwater treatment measures do not impair usability of the area. [COA] [PLANNING]
- AT-6. PARKING MANAGEMENT:  
On-Site parking management shall conform with the approved parking management plan. [COA] [PLANNING]
- AT-7. PARKING LOT MAINTENANCE:  
The parking lot shall be maintained in accordance with the approved plans and as follows:
- a) Clearly mark all employee, customer, and compact spaces. This shall be specified on the Building Permit plans and completed prior to occupancy.
  - b) Maintain all parking lot striping and marking.
  - c) Assure that adequate lighting is available in parking lots to keep them safe and desirable for the use.
  - d) Require signs to direct vehicles to additional parking spaces on-site, as needed.
  - e) Clearly mark all compact spaces as per approved plans. [COA] [PLANNING]
- AT-8. UNENCLOSED STORAGE (PROHIBITED):  
Unenclosed storage of any kind shall be prohibited on the premises. [COA] [PLANNING]
- AT-9. VEHICLE SALES, LEASING AND RENTAL PROHIBITED:  
The sales, leasing or rental of vehicles, trailers are prohibited on the subject property. [COA] [PLANNING]
- AT-10. OFF-STREET PARKING:  
Off-street parking for both residents and guests shall be maintained at all times in accordance with approved plans. [COA] [PLANNING]
- AT-11. RECREATIONAL VEHICLE STORAGE PROHIBITED:  
Unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels and aircraft, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises. [COA] [PLANNING]

- AT-12. HOA REVIEW AND APPROVAL:  
In common interest developments, any future applications to the City for physical modifications on commonly owned property shall require consent of the board of directors of the homeowners association, architectural review committee or similar committee; applications for physical modifications on privately owned property shall require the individual property owner's signature. Individual property owners submitting an application for physical modifications on private property shall comply with any approval processes outlined as such in the conditions, covenants & restrictions (CC&Rs) of their respective development. [COA] [PLANNING]
- AT-13. HOA RESPONSIBILITIES:  
The chairperson, secretary or principal officer of any committee or association shall notify the Planning Division and the Neighborhood and Community Resources Division of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective. [COA] [PLANNING DIVISION/NEIGHBORHOOD AND COMMUNITY RESOURCES DIVISION]
- AT-14. BMP MAINTENANCE:  
The project applicant, owner, landlord, or HOA, must properly maintain any structural or treatment control best management practices to be implemented in the project, as described in the approved Stormwater Management Plan and indicated on the approved building permit plans. [SDR] [PLANNING]
- AT-15. BMP RIGHT OF ENTRY:  
The project applicant, owner, landlord, or HOA, shall provide access to the extent allowable by law for representatives of the City, the local vector control district, and the Regional Water Quality Control Board, strictly for the purposes of verification of proper operation and maintenance for the storm water treatment best management practices contained in the approved Storm Water Management Plan. [SDR] [PLANNING]
- AT-16 FIRE DEPARTMENT ACCESS:  
A Knox system (key switch) shall be provided and maintained for all locked gates in accordance with Fire Prevention requirements. [COA] [PUBLIC SAFETY-FIRE PREVENTION]